

Hate Speech from the Traditional Islamic Perspective

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Disclaimer

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Indianapolis, March 21, 2017

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Abstract

Hate speech under the traditional Islamic perspective (Sharia) is ambiguous and that in turn increases hate speech under the justification of protection of freedom of expression. At the same time, the ambiguity in the definition for the concept of hate speech in Islam has been leading many countries to suppress peaceful political opposition under the justification of the fight against hate speech. Therefore, there is a need to study the interaction between the freedoms and restrictions to infer the dividing line between freedom of speech and hate speech. Consequently, it is possible to conclude a precise concept of hate speech from a traditional Islamic perspective.

To address this issue, this study begins with reviewing provisions on Freedom of Expression and Hate Speech in the perspective of international and regional instruments, some Islamic national laws and some Islamic organizations. The study, then, move on to discuss the main problem thesis; it addresses that concept of hate speech through the provisions of primary sources of Islamic law, which are the Quran and Sunnah, and secondary sources such as consensus, juristic reasoning, preference, and public interest, in order to define this concept in a precise way. Consecutively, the study will examine five elements: forms, promoters, contents, contexts, and effects of speech in order to develop a holistic and explanatory definition of hate speech from the traditional Islamic law. After providing a definition of hate speech, this study will analyze examples of speeches issued by followers of Sunni and Shiite doctrines; the two terrorist groups, Al-Qaeda and ISIS, who ascribe themselves to Islam; and disputing parties in the Arab Spring States. Moreover, the study discusses the issue of freedom to criticize religions, including Islamophobia, from traditional Islamic law and international law. Lastly, in order to reach the real position of traditional Islamic law toward hate speech issued by Islamophobic individuals or groups, the study analyzes examples of their speech based on the definition of hate speech from a traditional Islamic perspective.

The inevitable result of the dissertation revealed that the concept of hate speech can be defined based on the provisions of traditional Islamic law. According to this definition, speech issued by Sunni and Shiite doctrines; the two terrorist groups, Al-Qaeda and ISIS, disputing parties in the Arab Spring States and Islamophobic individuals or groups, they all, as the dissertation reveals, are classified as hate speech under the traditional Islamic perspective.

The conclusion of this dissertation argues that the legal efforts, including developing a precise definition of hate speech, are not sufficient. Therefore, the dissertation proposes a holistic approach

to limit hate speech through several measures, such as political, educational, social, and measures to regulate the media.

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List of Abbreviations

ICCPR	The International Covenant on Civil and Political Rights
CERD	The Convention on the Elimination of Racial Discrimination
UNCRC	The United Nations Convention on the Rights of the Child
CRPD	The Convention on the Rights of Persons with Disabilities
UDHR	The Universal Declaration of Human Rights
ECHR	The European Convention on Human rights
ACHR	The American Convention on Human Rights
ACHPR	The African Charter on Human and Peoples Rights
ACHR	The Arab Charter on Human Rights
ICERD	The Convention on the Elimination of All Forms of Racial Discrimination
ECRI	The European Commission against Racism and Intolerance
BLG	Saudi Basic Law of Governance
LPMP	Saudi Law of Printed Materials and Publication
ACCL	Anti- Cyber Crime Law in Saudi Arabia
EC	Egypt's Constitution of 2014
CCE	Criminal Code of Egypt
ROJPF	The Regulation and Organization of Journalism and Press Functions
EJHC	The Egyptian Journalists Honor Charter
LC	The Lebanese Constitution
LCC	The Lebanese Criminal Code
LPL	Lebanese Publications Law
LHMC	The Lebanese Honor Media Charter
IRIC	Islamic Republic of Iran Constitution
IPCIRI	Islamic Penal Code of the Islamic Republic of Iran
CUAE	The Constitution of the United Arab Emirates
UAEPD	The United Arab Emirates Penal Code
UAE	The United Arab Emirates
UAELPP	The UAE Law of Publications and Publishing
UAECDH	The UAE Law on Combating Discrimination and Hatred

CDHRI	The Cairo Declaration on Human Rights In Islam
ADRV	Al-Azhar Document on Renouncing Violenc
GPSRI	The General Presidency of Scholarly Research and Ifta
OIC	The Organization of Islamic Cooperation
HRC	The Human Rights Commission
IRA	The Islamic Research Academy
GIC	The General Islamic Conference
MWL	The Muslim World League
IJC	The Islamic Jurisprudence Council

Chapter 1: *Introduction*

1. 0. Brief Introduction

The need to balance fundamental human rights, guaranteed under international and domestic laws with the necessity of imposing strict limitations on these rights in some cases, remains a constant concern and a great legal challenge on all international and domestic levels. Although the limitation of human rights is controversial, it is an essential and an integral part of the human rights perspective. What is defined as "a human right" must not violate others' rights or harm international and domestic peace. When the exercise of freedom of expression takes on negative and inappropriate forms, and becomes counterproductive, there is a risk that the speech expresses hostility, hatred, and discrimination. This study examines the interaction between freedoms and limitations with regards to freedom of expression and hate speech. The view that all forms of expression in religious and political contexts are considered a basic right is seldom denied. The scope of that freedom when it is exercised in hate speech is extensively discussed.

Hate speech exists in all societies of varying degrees. Hate speech is frequently disguised as defending the rights of a group or individuals, but in its true form, it is brutal and barbaric. This type of speech plays a pivotal role in inciting violence and promoting ethnic and religious discrimination. Incidents of hate speech have increased across the world, especially in the Islamic world, along with the occurrence of dramatic and catastrophic events, human rights violations, and affronts to international and local security and peace. This disturbing trend is a natural result of the absence of international and local legislation that determines clearly the concept of hate speech. The international law and the legislation of some Islamic states, like the UAE, have addressed some proscribed forms of expression, such as those mentioned in Article (1) of Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred that states; "Hate Speech: Any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups." However, a precise definition that helps to provide full protection against the negative effects of hate speech has not been developed through these legislations. The door remains open to divergent interpretations of what constitutes hate speech or freedom of expression, and leads to confusion between them. The absence of a consistent definition allows many forms of hate speech to occur under the pretext of freedom of expression.

Moreover, the lack of a clear definition encourages actions that are offensive, intolerable in any form, and insufferable by national and international legal standards. Despite the remarkable development of global politics, hate speech has spread dramatically and thus has figured prominently as a causal factor in many international conflicts, especially those erupting in the Middle East.¹ Following the end of World War II, several cases of hate speech were brought before the International Military Tribunal at Nuremberg. At that time, hate speech was predominantly Nazi-related. In recent years, similar cases of hate speech have erupted in Bosnia and Yugoslavia. Today, most cases of hate speech are directly related to terrorist groups who claim to be Muslims from the Islamic States. Hate speech under the traditional Islamic perspective (Sharia) is ambiguous.² Therefore, there is a need to study the interaction between the freedoms and restrictions to infer the dividing line between free and hate speech. Accordingly, this study provides an accurate definition and a delineation of the basic elements of hate speech from an Islamic perspective, explores the rules relating to hate speech that tends to incite violence under Islamic criminal law, and gives, based on the definition of hate speech from the Islamic perspective, a thorough analysis of some samples of speech issued by those who identify themselves as Muslims against others, and by Islamophobic individuals or groups against Islam and Muslims.

1. 1. Scope and Limitation

The scope of the study is confined to traditional Islamic law in defining hate speech, and also in all analysis. However, although this study provides a brief review of the provisions of Islamic regional and local legislation and international law relating to the limitations on freedom of expression, it does not depend on them for analysis of all issues raised in the study.

1. 2. Research Questions

Traditional Islamic law does not put a precise definition on the concept of hate speech, and thus this speech remains as an ambiguous term. The main question to be answered is:

¹ Ekmeleddin Ihsanoglu, *Islamophobia and Terrorism: Impediments to the culture of peace*, Arches Quarterly, *Islamophobia and Anti-Muslim Hatred: Causes & Remedies*, Vol. 4, p.12, The Cordoba Foundation, London 2012

² The term (Traditional Islamic Law) merely another term, in addition to the term (Islamic Law), used to refer to the (Sharia). Therefore, these three terms will be used interchangeably in this dissertation.

Is examining the interaction between the freedoms and restrictions able to infer the dividing line between free and hate speech?

If the forms of limitation are not sufficient to define that speech, this indicates a void left by these laws that needs to be addressed with regards to the concept of hate speech. If an explicit definition of hate speech based on the primary and secondary sources of Islamic law is deemed to be necessary, the main question to be answered is:

What is the concept of hate speech from a traditional Islamic perspective?

The focus of this research will be primarily on the definition, history, factors of its dissemination, and cases of hate speech under Islamic law. In order to arrive at a finding regarding the position of Islamic law on hate speech, the concept of hate speech must remain as the focal point and the main criterion in the analysis of all issues raised herein. Therefore, the study investigates the following subordinate questions: What is the position of Islamic law on speeches issued by Sunnis, Shiites, some terrorist groups that ascribe themselves to Islam, some disputing parties in the Arab Spring States (ASS) such as the Muslim Brotherhood Group, supporters of the current Egyptian government, and lastly Islamophobic individuals or groups who speak against Muslims and Islam?

1. 3. The Importance of Research

Previous research has been done on the subject of Islamic discourse with regard to claims for the renewal of this discourse, but without focusing specifically on the concept and the provisions of hate speech under Islamic Law.³ The official Islamic organizations became aware that there

³ Some examples of research that have discussed Islamic discourse in general without focusing specifically on the concept and the provisions of hate speech under Islamic Law, are as follows:

(A) "Religious Discourse and How to Be?" by Tantawi, Mohammed Sayed.

In discussing Islamic discourse, the author seeks to explain Islamic speech in general and sets its specifications. After the events of 9/11, the United States pronounced the necessity of renewing Islamic speech to ensure that militants like, bin Laden, Al Qaeda and the Taliban will not appear again. The U.S. considered that some Islamic principles such as loyalty and disavowal, and Jihad are dangerous principles. Thus, the author focused on the meaning of Islamic discourse through the perspective of the Al-Azhar Institution. In analyzing Islamic speech in an expository manner, the author considers that, religious discourse has profound effects in the soul, well-established place in the hearts and status affects the feelings and emotions towards the benevolence when it was derived from the Holy Quran, but does not specifically discuss the concept of hate speech under Islamic law with respect to those speeches by terrorist groups. In general, the book is the beginning of the effort needed for other academics to complete clarifying the concept of hate speech from the Islamic perspective.

(B) "Towards Islamic Discourse" by Dr. Issam Ahmed al-Bashir.

was a problem in contemporary Islamic speech, especially after the events of 9/11. Most of the search focused on the renewal of Islamic discourse without compromising its principles and constants. Hate speech has played a prominent role in the emergence of these claims of the renewal of Islamic discourse. Therefore, the objective of this research is to provide an integrated vision about hate speech, which has become widespread as demonstrated clearly by the terrorist groups' speech, as well as through some non-Muslims' speech against Muslims.

The intent of this dissertation is to clarify the concept of hate speech from the Islamic perspective, through answering the research questions. This study aims to have its conclusions reach the Islamic communities, including scientists, intellectuals, and those interested in Islamic law, and also the international legal community in order to develop theories about hate speech based on Islamic law and not through the actions of groups or countries that are not valid representatives of Islam.

This subject is of heightened importance because of recent events in the Middle East, especially with regards to the Arab Spring States and the use of hate speech by Iran against neighboring countries. Various media outlets have also played a prominent role in the spread of this speech and the events of the Arab Spring have been the most prominent example of this. Thus, the provisions of hate speech under the traditional Islamic law must be examined thoroughly in order to elucidate to the world the position of traditional Islamic law on hate speech whether used by Muslims or non-Muslims.

Hate speech is one of the most common phenomena across communities, regardless of these communities' forms, patterns, and beliefs. Hate speech is not bound to only one type of environment, society, or religion. Hate speech is a threat to all peaceful co-existence. It violates

The principles of Dr. Ahmed al-Bashir parallel those in (Religious Discourse and How to Be?) in that he addresses Islamic discourse without specifically focusing on the concept and provisions of hate speech under Islamic law and suggests that Islamic discourse should be linked to time, place, and man and connected to reality. In addition, the author points out that the Islamic discourse is characterized by its principles remain unwavering although its methods change.

(C) "Renewal of Islamic Discourse from the Pulpit to the Internet," by Dr. Muhammad Yunus.

Dr. Yunus presents a new point of view on issues relating to Islamic discourse, quite different from the demands for renewal of religious discourse that emerged following the events of 9/11, and centers his focus on Islamic speech within the Muslim world. He seems to focus solely on good examples of Islamic discourse in the events of the Arab Spring, contending that the speeches of some Islamic groups have shifted from hatred to balance. Similar to the previous authors, Dr. Yunus does not specifically focus on the concept and provisions of hate speech under Islamic law.

other people's basic rights, and poses a threat to international security and peace. Hostile behaviors are generally a result of hate speech.⁴ However, although the concept of hate speech under Islamic law will be elaborated with this dissertation, such hatred will not be dispelled through laws or punishments. Other measures are needed to help in this fight. In the end, this study aims to provide a comprehensive method to prevent hate speech and incitement. Various religious, political, cultural, social, educational, and media-censoring measures can be pursued to achieve the goal of reducing hate speech and its consequences. These measures, will play an important role in conjunction with international, regional, and national laws, in preventing hate speech and spreading discourses of tolerance.

1. 4. Chapter layout

This dissertation will start with an overview of Islamic law and Islamic discourse, and then include the history and the position of current international and Islamic legislation relating to the subject. Moreover, the study presents the precise definition of hate speech from traditional Islamic law, and analysis of some speech.

Chapter 2 seeks to provide a simple background of Islamic law to assist the readers to engage fully with this research, which is focused on the position of traditional Islamic law on hate speech. Because Islamic law is a law based on religion, this chapter begins with providing the religious influence on the formation of Islamic law and then provides a precise definition of this law. The next section presents the primary sources of Islamic law, which are adopted as the basic legislation, and the secondary sources, which are considered tools that lead to legislation. The third section focuses on the objectives of Islamic law and the important role they play in the effectiveness of Islamic law. The fourth section provides the formative stages and historical development of Islamic law. The last section of this chapter provides a quick review of the current application of Islamic law by Islamic nations. More specifically, this section will focus on the application of Islamic criminal law, because the prohibition of hate speech is usually classified under Criminal

⁴ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organized by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

law. Finally, this section will give a general overview of the classification of crimes and sentences in light of Islamic penal law.

Chapter 3 provides an overview of the right to freedom of expression under international law. It begins by focusing on the International documents that protect the freedom of expression and put the demarcation line between this freedom and hate speech at the international level. Freedom of expression, will also be discussed under the regional treaties, such as: The European Convention on Human Rights, The American Convention on Human Rights, The Arab Charter of Human Rights, and The African Charter on Human and People's Rights. Then, it moves on to discuss freedom of expression through the legislation of some Islamic states and through instruments of some Islamic regional organizations. Throughout this chapter, the issue of when and how the right can be legitimately restricted will be addressed.

Chapter 4 seeks to examine the interaction between freedoms and limitations with regard to freedom of expression and hate speech from the traditional Islamic law. To discuss these matters, the chapter is divided into four sections. The first section focuses on important issues related to the concept of Islamic discourse and the most prominent types of this discourse at present. The next section discusses the concept of freedom of expression, including its essential objectives, its principles and its conditions and limitations, again from the traditional Islamic perspective. The third section addresses the concept of hate speech through the provisions of primary sources of Islamic law, which are the Quran and Sunnah, and the secondary sources such as consensus, juristic reasoning, preference, and public interest in order to define this concept in a precise way. This chapter adopts five elements, which are forms, promoters, contents, contexts, and effects of speech, and then provides a holistic and explanatory definition of hate speech.

Chapter 5 aims to analysis speech issued by those who belong to Islam in reality, and by the terrorist groups who identify themselves as Muslims, and the analysis will be based on elements and definition of hate speech from the traditional Islamic perspective to know whether their speech is classified as hate speech or not. The first section provides a brief overview of Sunni and Shiite doctrines. Then, this chapter analyzes certain speech issued by followers of both doctrines. The second section addresses terrorist groups that ascribe themselves to Islam, and depend on their speech to promote violence and hostility against other groups and people. First of all, this chapter focuses on such religious justifications as the principle of Jihad and freedom of religion, which

these terrorist groups use in their speech to justify their terrorist acts. Then, it provides brief descriptions of the two most prominent terrorist groups; Al-Qaeda and ISIS. Next, in order to demonstrate the true position of Islamic law toward hate speech by terrorist groups that ascribe themselves to Islam, this chapter moves to analyze examples of speech issued by followers of both terrorist groups. The last section focuses on hate speech in Egypt as an example of hate speech in the Arab spring states, and moves to analyze some examples of speech issued by followers of the Muslim Brotherhood, and speech against them.

Chapter 6 addresses forms of exercising freedom of criticism, from the traditional Islamic perspective, and presents pros and cons regarding the exercising of freedom of criticism among legal Islamic schools. In addition, it discusses the issue of freedom to criticize religions from the traditional Islamic perspective. More specifically, this chapter discusses in-depth the argument saying: the description of Islam as a religion of violence and war, based on the doctrine of jihad and the doctrine of loyalty to Islam and disavowal from others must be classified as freedom of criticism and not Islamophobia. Lastly, the chapter provides a definition of the phenomenon of Islamophobia, the concepts of Islamophobia adopted by extremist groups against Islam and Muslims, and the historical background of Islamophobia. In addition, this section reviews the role of the organization of Islamic Cooperation against hate speech issued by supporters of Islamophobia. Then, it moves on to discuss freedom to criticize religions, including Islamophobia, from an international perspective. Finally, in order to reach the real position of traditional Islamic law toward hate speech issued by supporters of Islamophobia, this chapter analyzes examples of their speech based on the definition of hate speech from the traditional Islamic perspective.

1. 5. Research methodology

Due to the nature of the research topic, and the need for privacy while addressing many highly sensitive issues relating to hate speech from the Islamic perspective, the research methodology is a non-empirical study taken in the form of an in-depth literature review that examines the issues from all aspects. The literature study includes a review of the primary and secondary sources of Islamic law, books, articles, and journals as well as local, regional, and international legislation. Additionally, the study uses an historical approach to examine the development of hate speech in the Muslim community, or by non-Muslims against Islam and its followers. This approach establishes the background of the research, lays out the ideas and principles relating to the purposes

of the research, and traces their historical development. Moreover, the researcher uses the legal analytical approach to investigate the position of some local and regional Islamic legislation and Islamic law relating to issues of freedom of expression and hate speech. The descriptive approach is used to interpret selected Islamic concepts and describe types and characteristics of expressions under the Islamic perspective. Finally, philosophical questioning is used to ascertain the necessity of limiting hate speech in the Islamic world and the possible void evident in the current legislation of Islamic states alongside the primary and secondary sources of Islamic law. This philosophical questioning is used to investigate a holistic approach to preventing hate speech through a range of possible preventive measures with reference to practical examples from local and international law agencies and the selected international human rights efforts concerning hate speech.

This research has relied on (Abdullah Yusuf Ali) for his translation of the Quranic texts from Arabic into English. In his book: (The Meaning of the Holy Qur'an).⁵ Yusuf Ali has chosen the meaning for every Arabic word an equivalent and appropriate English word which takes into account the complete context of the source word. He does not leave any room for ambiguity and his contribution has made his translation, to a large extent, very precise. This translation is also the most widespread among Muslim academics. In spite of the fact that it is an old translation, it is still used in many publications and Islamic case studies due to the quality and precise English rendering of words of the Arabic words. Most notably, in cases where I have found the meaning unclear in the translation, I have utilized another translation instead, and have indicated as much in the footnotes.

Whenever the need to discuss the doctrines of the various schools of thought arise, such as the Sunnah or Shia`, and the schools of Islamic jurisprudence such as Shafi`iyya and Zaidiyya, then this research has relied on the books and references that are relied on by those very schools of thought themselves. The purpose for this is to achieve total impartiality within the framework of this research in presenting the beliefs and those issues that are related to them. As for historical quotations relating to the doctrines of the Islamic schools of thought, then authors who do not have any affiliations to these schools of thought, have been used so that the historical content presented is highly reliable.

⁵ Abdullah Yusuf Ali, The Meaning of The Holy Quran, The Islamic Computing Centre, London.

Likewise, this research has also relied on Islamic books of jurisprudence for any issue that is intended for discussion under the traditional Islamic viewpoint. The reason being that, these books have not ceased to be points of reference among many contemporary Muslim scholars of thought on such issues. These books allow an in-depth awareness, thereby contributing in the clarification of the issues highlighted in this research. Furthermore, these books are distinguished in their familiarization of Quranic and Sunnah texts along with their explanations and the mention of statements behind the discussions among Muslim jurists.

Chapter 2: *Islamic Law in General*

2. 0. Introduction

The purpose of this chapter is to provide a simple background of Islamic law to assist the readers to engage fully with this research, which is focused on the position of Islamic law with regards to hate speech by some groups, doctrines or countries. All issues relating to hate speech must be discussed only through the sources of Islamic law and not through the actions of some groups or countries that are not representative of all Muslims, because they may not apply Islamic law correctly. The significance of this chapter is to address the research question and to discern in the next chapters whether the Muslims who are producing hate speech are based on the rules and doctrines of Islamic law. In short, understanding this chapter is necessary, because all of the issues of this research, such as definition, provisions, cases, and sanctions of hate speech, will be discussed from the perspective of Islamic law.

Because Islamic law is a law based on religion, this chapter begins with explaining the religious influence on the formation of Islamic law and then provides a precise definition of this law. The next section presents the primary sources of Islamic law, which are adopted as the basic legislation, and the secondary sources, which are considered tools that lead to legislation. The third section focuses on the objectives of Islamic law and how they play an important role in the continuation of Islamic law. The fourth section traces the formative stages and historical development of Islamic law from its birth until the current era. The last section of this chapter provides a quick review of the current application of Islamic law by certain nations. More specifically, this section will focus on the application of Islamic criminal law, which is why the title of this study is classified under criminal law. Finally, this section will give a general overview about the classification of crimes and sentences in light of Islamic penal law.

2. 1. Islamic Law is Religious Law

Islamic law is based totally on the Islamic religion in all its legislation. In the city of Mecca⁶, the Islamic religion originated from the Prophet Muhammad in the early 7th century⁷.

⁶ Mecca is located in western Saudi Arabia, according to Islamic belief, it is Islam's holiest city. Only Muslims are allowed to enter this city and visit al-Masjid al-Haram (Sacred Mosque).

⁷ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p.5

Islam is one of Abrahamic religions as in Christianity and Judaism, which are "believed to be the inerrancy of God's own words set out in holy books"⁸.

2. 1. 0. Meaning of Islam: Submission to Allah

Islam is an Arabic word that means "submission, surrender and obedience"⁹. In the religious context, Islam means: "the true submission and obedience to God alone."¹⁰ In the Quran, Allah said: "This day have I perfected your religion for you, completed My favour upon you, and have chosen for you Islam as your religion."¹¹

Thus, Muslims must demonstrate this by following God's commands, and avoiding what He has prohibited. The primary requirements to join the Islamic religion are based on a voluntary and public declaration that there is no god but God, and that Muhammad is the messenger of God.¹² Muslims believe that God's final prophet is the Prophet Muhammad.¹³ They also believe that God revealed the Quran to him. Muslims believe that God had revealed other religious books to prophets who came before the appearance of Islam such as the Tawrat (Torah) and the Injil (Gospels). At the same time, they believe that parts of these books have become distorted, either in interpretation, in text, or both.¹⁴

2. 1. 1. The Definition of Islamic Law: Sharia and Fiqh

Islamic law is derived from Sharia, which is considered as a source through the divine revelation, and Fiqh (jurisprudence), which is considered as a source through human understanding and knowledge.¹⁵ An important difference between Sharia and Fiqh must be recognized to understand Islamic law correctly. "Although either of the terms is referred to as Islamic law, they

⁸ Lloyd Ridgeon, *Major World Religions: From T Origins to the Present*, p. 328, Routledge Curzon, London and New York (2003).

⁹ Mawdudi Saayyid Abul Ala, *Toward Understanding Islam*, p.8, U. K. I. M. Dawah Centre (1960).

¹⁰ Jamaal al-Din M. Zarabozo, *What Is Islam?*, p. 111, Ministry of Islamic Affairs, Endowments, Da'wah, and Guidance, Saudi Arabia, Riyadh (2005)

¹¹ The Quran, verse (5:3)

¹² Jamaal al-Din M. Zarabozo, *What Is Islam?*, p. 171, Ministry of Islamic Affairs, Endowments, Da'wah, and Guidance, Saudi Arabia, Riyadh (2005)

¹³ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 18

¹⁴ Ibid, p. 17-18

¹⁵ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008, p. 40

are not technically synonymous."¹⁶ The word Sharia is translated into the English language as "the legal system used by the Islamic people".¹⁷ This term is given in the verse of the Qur'an (45:18), in which God says in a speech to the Prophet Muhammad: "Then We put thee on the (right) Way of Religion: so follow thou that (Way), and follow not the desires of those who know not."¹⁸

The word "Sharia literally means a way to the watering place or a path apparently to seek felicity and salvation"¹⁹. Sharia is grounded in the sources of the Islamic religion, which are the Quran and the Sunnah. Fiqh, in contrast, is "an understanding of the Sharia, and not the Sharia itself."²⁰ Fiqh is the understanding as a secondary source derived from the Sharia, Therefore, Islamic law derives its provisions from Sharia and Fiqh as primary and secondary sources.

Islamic law does not provide legal provisions or rules. It covers all aspects of the life of Muslims, whether religious, political or economic...etc. Thus, Islamic law is defined as "a code of law or divine injunctions that regulate the conduct of human beings in their individual and collective lives"²¹

Islamic law is segmented into two main obligations, which are religious and judicial obligations. The religious obligations are the individual devotional matters and the moral matters of Islam. These obligations are the rights of God, which each Muslim must fulfill in his relationship with God. Prayers and fasting are the most prominent examples of religious obligations. The juridical obligations however, are the rules that govern the relationships and determine the rights of Muslims with each other and with non-Muslims. Government authorities and the judiciary are obliged to maintain the rights of communities. Therefore, these obligations are enforceable and subject to the jurisdiction of courts if one violates another's rights.

¹⁶Mashood Adebayo Badekin, *Modern Muslim States Between Islamic Law and International Human Rights Law*, The University of Nottingham, (2001) p. 25

¹⁷ The Law Dictionary Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed, via: <http://thelawdictionary.org/sharia/> (Last access January 13, 2017)

¹⁸ The Quran, verse (45:18).

¹⁹ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008, p. 14

²⁰ Ibid, p. 16

²¹ Muhammad Ayub, *Understanding Islamic Finance*, John Wiley & Sons Ltd 2007, p. 21

2. 2. Sources of Islamic Law

Islamic law is derived from primary and secondary sources. Throughout Islamic history, Muslim jurists, in determining the legality of an issue, have used these sources in descending order. It is necessary to utilize these sources and utilize them as the main criterion in the analysis of all legal issues regarding to Islamic communities, especially with regards to the topic of this research.

2. 2. 0. Primary Sources of Islamic Law

The primary sources of Islamic law are the Quran and the Hadith, which are considered to be derived from divine revelation.

2. 2. 0. 0. The Quran

According to Islamic belief, the Quran is the Arabic words of God that was gradually revealed to the Prophet Muhammad by the angel Gabriel over a period of twenty-two years from the year 610 to 632.²² The Quran is comprised of 114 chapters with 6,236 verses. For Muslims, the Quran is the final book of God and is forever free from any distortion.²³ In addition, they believe that the Quran covers totally all aspects of Muslims' lives.²⁴

The Quranic text, in a few cases, includes specific rulings, such as provisions for murder, adultery, theft, and slanderous accusation, as well as marriage, divorce, and inheritance. However, the Quran, in general, does not provide specific rulings on all issues of Islamic law; it provides general guidelines.²⁵ Although the general principles and texts of Quran are a complete and holistic approach, the understanding and interpretation of the Quran may differ from one scholar or doctrine to another.²⁶ Therefore, the Quranic legislation is designed as general principles in order to be easily understood, to be flexible and to be validly applied anytime and anywhere.

²² Raj Bhala, *Understanding Islamic Law (Shari'a)*, p. 292, LexisNexis; 2011, and also see John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 17

²³ *Ibid*, p 299

²⁴ John L. Esposito, *Islam: The straight path*, Oxford University Press, Revised third edition (2005), New York, p. 23

²⁵ MH Kamali, *Shari'ah Law: An Introduction* (Oneworld Publications, Oxford 2008) p. 22

²⁶ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, p. 34, 35, Islamic Texts Society, 1991

The Quran is the most reliable and the primary source of Islamic law. However, it is not a legal instrument, and thus, the legal procedures that are required to derive rules from the Quran are the interpretation of Prophet Muhammad, then the interpretation of the Companions of the Prophet²⁷, and lastly the interpretation of the Islamic scholars.

2. 2. 0. 1. The Sunnah

The second fundamental source of Islamic law is the Sunnah of the Prophet Muhammad, known also as the Hadith. The word Sunnah in the Arabic language means "approach", or "way".²⁸ Under Islamic law, the Sunnah is defined as the sayings, actions and explicit and implicit approvals of the Prophet Muhammad.²⁹ The words of the Prophet are a divine revelation, as are his acts and approvals, all of which are binding laws. The Sunnah is considered as equal to the Quran in legal legislation,³⁰ which is confirmed by the following texts of the Quran;

"You who believe! Obey God, and obey the Apostle, and those charged with authority among you. If ye differ in anything among yourselves, refer it to God and His Apostle."³¹

"He who obeys the Apostle, obeys God."³²

According to the Quranic texts, the rulings that were issued by the Prophet constitute binding laws. As a result disregarding any rule of the Sunnah is considered not only a rejection of the Sunnah but also a rejection of the Quran.

The legislation of the Sunnah falls into three categories. First, the Sunnah reaffirms and reinforces rulings that exist in the Quran. Second, it provides detailed interpretations and

²⁷ According to Arabic, "Sahabi" literally means, "Companion". For Muslims, A Companion is someone who saw the Prophet and believed in him as well as died a Muslim.

²⁸ Ibn Manzur, Lisan al-Arab (The Arab Tongue), Volume.12, p. 281 Dar Sader Publication; 3rd edition (2000)

²⁹ Saif A-Din Al-Amidi, Al-Ahkam fi Usul Al-Ahkam (Assets of Provisions), Volume: 1, p. 169, Islamic office, Lebanon, Beirut (1982), Abd al- Wahhab Khallaf, Ilm Usul al-Fiqh (Science of Jurisprudence origins), 10th edition, Dawa office Publishing & Distribution, p. 36

³⁰ MH Kamali, Shari'ah Law: An Introduction, Oneworld Publications, Oxford 2008, p. 23, Abd al- Wahhab Khallaf, Ilm Usul al-Fiqh (Science of Jurisprudence origins), 10th edition, Dawa office Publishing & Distribution, p. 37

³¹ The Quran, verse (4:59).

³² The Quran, verse (4:80)

clarifications of the Quranic texts. Third, it promulgates new rules, when the Quran does not originate rulings on cases.³³

Since the Sunnah is a primary source of Islamic law, its texts must be reliably attributed to the Prophet Muhammad, because the Sunnah written down until long after the Prophet death, and thus not all texts of the Sunnah are certain. Consequently, the science of Hadith, which aims to verify the authenticity of Hadith, was founded in the late eighteenth century.³⁴ The majority of the Muslim world adopts books of Sahih Al- Bukhari³⁵ and Sahih Muslim³⁶ as the most authentic collections of the Sunnah.³⁷ The four books of Sunnah collections which come in the second level of authenticity of the Sunnah³⁸ are Sunan Abu Dawud,³⁹ Sunan At- Tirmidhi,⁴⁰ Sunan An-Nasa'I,⁴¹ and Sunan Ibn Majah.⁴² The other books, also under the science of Hadith, have played a prominent role in determining whether some texts of the Sunnah are correct.⁴³

³³ Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa office Publishing & Distribution, p. 39

³⁴ Malik, the founder of Maliki School, edited the first full book of Sunnah after the death of the Prophet Muhammad, known as "al-Muwatta". See MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008, p. 74, However, there were several books that collected hadith texts, but did not cover all hadiths. See Raj Bhala, *Understanding Islamic Law (Shari'a)*, p. 309, LexisNexis; 2011. For the English version of "al-Muwatta" book, see Malik ibn Anas, *Al-Muwatta of Imam*, (translated by Aisha Abdurrahman Bewley) London & New York: Kegan Paul International, 1989.

³⁵ Muhammad Ibn Ismail Al Bukhari (d. 256), This book contains 7,275 hadiths. For the English version of this book, see Imam Al-Bukhari, *Sahih Al-Bukhari* (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997

³⁶ Muslim ibn al-Hajjaj al-Qushayri (d. 261), This book contains 9,200 hadiths. For the English version of this book, see Imam Muslim, *Sahih Muslim* (Abdul Hamid Siddiqui trans.,), (New Delhi: Kitab Bhavan, 2000)

³⁷ Raj Bhala, *Understanding Islamic Law (Shari'a)*, p. 292, LexisNexis; 2011, and also see John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 17

³⁸ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, p. 311, Islamic Texts Society, 1991

³⁹ For the English version of this book, see Sulaiman Ibn Al Aash'ath, *Sunan Abu Dawud*, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984.

⁴⁰ For the English version of this book, see Muhammad Bin Eisa, *Jami' At-Tirmidhi*, (translated by Abu Khaliyl) Dar-us-Salam, Saudi Arabia, Riyadh (2007).

⁴¹ For the English version of this book, see Ahmed Ibn Shu'aib, *Sunan Nasa'i*, (trans. Muhammad Iqbal Siddiqi) Lahore (Pakistan): Kazi Publication, 1994.

⁴² For the English version of this book, see Muhammad Ibn Yazid, *Sunan ibn Majah*, (trans. Muhammad Tufail Ansari), Lahore, Pakistan: Kazi Publications, 1993-1996.

⁴³ For example, *Mosnad Imam Ahmed Ibn Hanbal* (d. 241), this book contains 22,199 hadiths. He accepted the solitary Hadith, which means if "Hadith is reported by a single person or by odd individuals from the Prophet". See Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, p. 73, Islamic Texts Society, 1991

2. 2. 1. Secondary Sources of Islamic Law

Some other sources of Islamic law were founded through independent reasoning (Ijtihad).⁴⁴ These sources are the secondary sources of Islamic law. The secondary sources are methodologies that lead to legal results; they are not legal texts. Based on the texts of the primary sources, Islamic scholars were authorized to promulgate the secondary sources of Islamic law to derive a rule of law through its texts. The following text of the Quran says; "If you realise this not, ask of those who possess the Message"⁴⁵

Moreover, according to the Sunnah:

“The Prophet Muhammad sent Muadh as judge to the Yemen, the Prophet asked him 'how he would judge (decide cases). He said, “I will judge in accordance with Allah's Book (the Quran).” He asked, “What, if it is not found in the Book of Allah?” He said, “Then according to the Sunnah of Allah’s Messenger.” He asked, “And if it is not in the Sunnah of Allah’s Messenger?” He said, “I will make ijtiḥad through my judgment.” The Prophet said, “Praise belongs to Allah who has made the messenger of the Messenger of Allah consistent with what pleases him.”⁴⁶

Although the secondary sources are based on independent reasoning, the practice of Ijtihad is limited to a qualified jurist, known as a mujtahid.⁴⁷ Ijtihad is acceptable with the following fundamental conditions:

1. The Mujtahid must have a comprehensive knowledge of the Quran and especially with regards to understanding all legal Quranic texts,⁴⁸
2. Full understanding of Sunnah texts and the science of Hadith.⁴⁹

⁴⁴ Muhammad Ayub, Understanding Islamic Finance, John Wiley & Sons Ltd 2007, p. 22

⁴⁵ The Quran, verse (16:43).

⁴⁶ This hadith was narrated by Abu Dawud no. 3592, see Sulaiman Ibn Al Aash’ath, Sunan Abu Dawud, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984, It was also narrated by Tirmidhi no.1332, see Muhammad Bin Eisa, Jami' At-Tirmidhi, (translated by Abu Khaliyl) Dar-us-Salam, Saudi Arabia, Riyadh (2007).

⁴⁷ Eiadh Alsulami, Jurisprudence Origins, p. 448, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

⁴⁸ Osama Al Hamoui, Principles of Islamic law, Damascus University press, 2009, p. 133

⁴⁹ Ibid

3. Adequate knowledge of the science of Arabic language. Since the language of the primary sources of Islamic law was Arabic, the Mujtahid must depend on it to derive legal rules and principles from these sources.⁵⁰

4. Full understanding of the science of principles of Islamic jurisprudence, which discusses the characteristics of the primary sources and the methods of deriving law from them.⁵¹

5. Awareness of changing circumstances of his era.⁵²

6. Extensive knowledge of all sayings and advisory opinions of the Companions, the scholars of the past, to prevent making new decisions on the same issue.⁵³

7. Consideration of the objectives of Islamic law which will be mentioned later in this chapter⁵⁴

The secondary sources are derived from several methodologies, including Ijma (scholarly consensus), Qiyas (analogical reasoning), Istihsan (juristic preference), Istishab (presumption of continuity), and Urf (custom).

2. 2. 1. 0. Ijma (Scholarly Consensus)

Ijma is the first in precedence of the secondary sources of Islamic law. Ijma became a necessary source following the death of the Prophet Muhammad because if a problem appeared during the Prophet's lifetime, he directly established the legal ruling. The legality of Ijma is derived through texts of the Quran and the Sunnah, such as the text of the Quran, which declares: "If anyone contends with the Apostle even after guidance has been plainly conveyed to him, and follows a path other than that becoming to men of Faith, We shall leave him in the path he has

⁵⁰ Eiadh Alsulami, Jurisprudence Origins, p. 453, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

⁵¹ Ibid

⁵² Abdulmajeed Muhammad Alsharfi, The Collective Ijtihad in Islamic Legislation, Ministry of Endowments and Islamic Affairs, Qatar, Doha (1998), p. 70

⁵³ Ibid, p. 69

⁵⁴ Ibid, p. 68

chosen, and land him in Hell."⁵⁵ Another such text is the Hadith of Muhammad, which states: "My ummah (world-wide Islamic community) will never agree upon an error."⁵⁶

Ijma is the consensus of all Muslim jurists on the origination of a ruling in a particular case in a period following that of the Prophet.⁵⁷ Ijma can be used if the primary sources do not refer directly to a particular legal issue.⁵⁸ If a new issue arises, all Muslim jurists (mujtahidun) must come to agreement on the resolution of the issue at that time.

In most periods of Islamic history, Ijma was not possible because of the widespread scientific differences among the Islamic legal schools.⁵⁹ In recent years, Ijma returned in a modern character, and not in the classic character, known as Islamic Jurisprudence Councils, which aim to provide rulings on new legal issues raised in the Islamic world.⁶⁰

2. 2. 1. 1. Qiyas (Analogical Reasoning)

Qiyas is the second of the secondary sources of law. According to Arabic, its lexical meaning is "measurement".⁶¹ Islamic law adopts Qiyas as a secondary source, if the Quran, the Sunnah, and Ijma do not explicitly mention a specific legal case.⁶² Qiyas can be defined as the methodology of measuring a rule existing in the primary sources and applying it to resolve a new issue based on the similarity of legal reasoning (which is known in Arabic as "Illa"), and of circumstances⁶³ For example, the Quran, the Sunnah, and Ijma prohibit the consumption of alcohol. In the first case, the legal reasoning for the prohibition of alcohol (the existing rule) is that it leads to intoxication. Drugs (new case) are also intoxicating. Secondly, the similarity of fact is concentrated in the demise of the mind with alcohol and drugs. Therefore, the legal result is that

⁵⁵ The Quran, verse (4:115)

⁵⁶ This hadith was narrated by ibn Majah, hadith no. 9107, see Muhammad Ibn Yazid, Sunan ibn-i-Majah, (trans. Muhammad Tufail Ansari), Lahore, Pakistan: Kazi Publications, 1993-1996.

⁵⁷ Eiadh Alsulami, Jurisprudence Origins, p. 124, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

⁵⁸ Osama Al Hamoui, Principles of Islamic Law, Damascus University press, 2009, p.127

⁵⁹ Abdulkareem Zidan, Introduction to Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002) , p. 133

⁶⁰ Abdulmajeed Muhammad Alsharfi, The Collective Ijtihad in Islamic Legislation, Ministry of Endowments and Islamic Affairs, Qatar, Doha (1998), p. 125,126

⁶¹ Ibn Manzur, Lisan al-Arab (The Arab Tongue), Volume:12 p. 234 Dar Sader Publication; 3rd edition (2000)

⁶² Raj Bhala, Understanding Islamic Law (Shari'a), p. 319, LexisNexis; 2011

⁶³ Mohammad Hashim Kamali, Principles of Islamic Jurisprudence, p..., Islamic Texts Society, 1991

drugs are prohibited as well. Qiyas always relies on the legal text that already exists.⁶⁴ As a result, it is not used to originate a law, but it is a methodology to expand the existing law.⁶⁵

2. 2. 1. 2. Istihsan (Juristic Preference)

Istihsan is one of the most important supplemental sources of Islamic law. According to Arabic, Istihsan literally means considering something preferable.⁶⁶ The practice of Istihsan differs from one legal school to another.⁶⁷ Some schools describe Istihsan as considering the stronger of two legal texts,⁶⁸ while others define it as replacing a legal ruling for another that has a rationale stronger than the one that is obtained in the existing rule.⁶⁹ The third viewpoint defines Istihsan as the exception of a partial issue from the general rule based on other legal texts.⁷⁰ The fourth side considers Istihsan as moving to another ruling depending on the public interest.⁷¹ The fifth view believes that Istihsan is intended to exchange the existing text to other text based totally on the Quran, the Sunnah and Ijma.⁷² In the practice, all of these definitions can be combined into one definition as types of Istihsan. Istihsan may be defined as the replacement of a legal ruling for another which is considered preferable based on a legal text of exception, stronger legal text, another which is supported by stronger reasoning, or the public interest. Istihsan is an important tool of Ijtihad to make decisions in legal issues without compromising on the textual sources.

⁶⁴ Eiadh Alsulami, *Jurisprudence Origins*, p. 144, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

⁶⁵ Raj Bhala, *Understanding Islamic Law (Shari'a)*, p. 319, LexisNexis; 2011

⁶⁶ Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa office Publishing & Distribution, p. 79

⁶⁷ Istihsan is upheld by majority of Islamic schools, except the Shafi School, which rejected Istihsan and considered that it depended on personal preferences. Kamali, *Istihsan and The Renewal of Islamic Law*, p. 8 International Institute of Advanced Islamic Studies (IAIS), Malaysia. This essay is derived, for the most part, from Kamali's book, entitled *Istihsan (Juristic Preference) and its Application to Contemporary Issues*, Jeddah: Islamic Research and Training institute, 1997.

⁶⁸ Some Maliki jurists, such as Ibn al-'Arabi (d. 534H), adopt this definition of Istihsan, Ibid, p. 1.

⁶⁹ The Hanafi jurist Abu'l-Hasan al-Karkhi (d. 340 H) adopts this definition. Ibid, p. 2.

⁷⁰ This definition is also adopted by some jurists of Hanafi School and is known as "exception-based istihsan". Ibid, p.3

⁷¹ The Maliki School often uses Istihsan based on maslaha (public interest). Ibid, p. 2

⁷² The Hanbali jurist Ibn Taymiyya (d. 728H) adopted this definition of Istihsan. Ibid, p.1

2. 2. 1. 3. Istishab (Presumption of Continuity)

Istishab literary means, "always accompany".⁷³ It refers to a ruling that has been applied in the past, and still applies in the present because of the absence of any conflicting evidence.⁷⁴ Some rules of Islamic jurisprudence are derived from the principles of Istishab, such as "all existing laws are considered valid until the argument is found that proves that law does not apply anymore"⁷⁵, and also "a conviction cannot be canceled by a questionable thing"⁷⁶. In this sense, if a plaintiff claims to lend a defendant an amount of money without strong and convincing evidence, the defendant, according to Istishab, cannot be convicted of that claim because originally he is innocent until his conviction is proven.

2. 2. 1. 4. Urf (Custom)

Urf is considered an important secondary source of Islamic law. Literally, Urf is the customs and usages of people.⁷⁷ Urf or custom can be defined as the recurring practices of a group of people, which are established based on different ethnic or regional usages in the present time.⁷⁸ Urf is adopted as a legal source if it does not contradict the primary sources.⁷⁹ As a result, Urf must be applicable and practicable for a particular age in conformity with the rules and principles of Islamic law. Urf has played a prominent role in adapting Islamic law to the changing customs of a community. A range of laws relating to transactions and marriages has been established based on

⁷³Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa office Publishing & Distribution, p. 91

⁷⁴ Istishab is not an independent source, but it is a presumption of the continuation of a previous rule, See Abdulkareem Zidan, *Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh)*, p. 270, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁷⁵ Ibid, p. 269

⁷⁶ Ibid, p. 270

⁷⁷ Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa office Publishing & Distribution, p. 89, see also, Abdulkareem Zidan, *Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh)*, p. 252, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁷⁸ Abdulkareem Zidan, *Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh)*, p. 252,253, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁷⁹ Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa office Publishing & Distribution, p. 89

customs.⁸⁰ For example, the manner of paying a dowry during or after the marriage contract differs based on the customs of that community.⁸¹

2. 3. Objectives of Islamic Law

Islamic law aims to create a perfect life based on protecting the rights of the individual, establishing justice, and realizing benefits. Islamic law's five objectives are embodied in protecting and preserving the basic necessities, which are religion, life, wealth and property, intellect, and progeny.⁸² Full knowledge of these objectives is necessary to understand and apply the Islamic legislation correctly.⁸³

2. 3. 0. Protection of Religion

This refers to two types of protection. The first is the protection of all matters relating to the Islamic religion.⁸⁴ The second is the protection of freedom of religion according to the Quranic verse that states: "Let there be no compulsion in religion"⁸⁵. In this sense, Islamic law prevents forcing people to embrace a specific religion, including the Islamic religion.

2. 3. 1. Protection of Life

All legislation of Islamic law aims to protect human life and considers that it is sacred. Islamic law not only prohibits crimes against all humanity, it also prohibits crime against a single human. The Quran considers that murdering one person is equal to murdering the whole of humanity, and saving one person is equal to saving the whole of humanity.⁸⁶ This objective also requires providing all basic needs of human life.⁸⁷

⁸⁰ Abdulkareem Zidan, Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh), p. 270, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁸¹ Osama Al Hamoui, Principles of Islamic Law, Damascus University Press, 2009, p. 84

⁸² Abdulkareem Zidan, Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh), p. 378, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁸³ Ibid, p. 379

⁸⁴ Ibid

⁸⁵ The Quran, verse (2:256)

⁸⁶ According to the verse of Qur'an (4:93) the God said: "If a man kills a believer intentionally, his recompense is Hell, to abide therein (Forever): And the wrath and the curse of God are upon him, and a dreadful penalty is prepared for him." see

⁸⁷ Abdulkareem Zidan, Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh), p. 379,380, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

2. 3. 2. Protection of Wealth and Property

Islamic law guarantees the rights of personal property and wealth. It has enacted legal systems to regulate business transactions between people and declared clearly that these must be built on explicit willingness.⁸⁸

To protect property, Islamic criminal law considers theft a crime punishable by the law.⁸⁹ Usury is forbidden because only rich people benefit from it.⁹⁰ Based on the principle of social responsibility, the rich are obliged to provide a certain percentage of their wealth and property to the poor every year.⁹¹

2. 3. 3. Protection of Intellect

Islamic law aims to preserve the thought of the individual and the community by protecting freedom of expression and promoting human intellect.⁹² Islamic law seeks to protect human intellect from dangers that may destroy it.⁹³ As a result, alcohol and drugs are prohibited because they have a negative influence on the intellect, and education is specifically encouraged.⁹⁴

2. 3. 4. Protection of Progeny

Under this objective, Islamic law established the family laws, including the laws of marriage, divorce, and the care of minors. Islamic law states clearly that the rights of children and generations are protected through their families have to be built on a legal basis. Adultery and sexual relations outside of marriage are strictly forbidden. In addition, false accusations of adultery are punishable by Islamic law, because these have a strong effect on the lives of children, who will

⁸⁸ Muwaffaq al-Din, Al Maqdisi, The Enricher (Al Mughni), Volume. 3, p. 482, Cairo Office, (1968)

⁸⁹ Rudolph Peters, Crime and Punishment in Islamic Law, Cambridge University Press, New York, p. 7

⁹⁰ Ibrahim Alnasser, The Position of Islamic Law on Banks, p. 185, Islamic Research Journal No. 18, The General Presidency of Scholarly Research and Ifta, Saudi Arabia, (1987)

⁹¹ Abu Ma'bad narrated that when the Prophet sent Mu'adh Ibn Jabal to Yemen (as governor), he said to him: "tell them that Allah has made it obligatory on them to pay the Zakat which will be taken from the rich among them and given to the poor among them." (Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 573, Volume. 2, p. 345, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997

⁹² Muhammad Ayub, Understanding Islamic Finance, John Wiley & Sons Ltd 2007, p. 24

⁹³ Abdulkareem Zidan, Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh), p. 380, 6th edition, Cordoba Corporation, Saudi Arabia (1976)

⁹⁴ Ibid

be deprived of a righteous upbringing.⁹⁵ All of these laws aim to establish the protection of progeny.

2. 4. History of Islamic Law

1. 4. 0. Prophet Muhammad: The Founder of Islamic Law

The Prophet Muhammad is the only recipient of Islamic legislation from God. He designed the formative foundation of Islamic law. He became the only reference of all Islamic legislation. Moreover, he has played the most prominent role in the consolidation of legal principles and rules through clarifying the concept of the Quranic texts and establishing the texts of the Sunnah. Therefore, it is appropriate to provide a brief summary of his personal life.

His full name is Muhammad Ibn Abdullah Al-Qurashi. He was born in 570 and grew up an orphan. His father died before his birth, and his mother, Amina, died when he was still a child. After his mother's death, he came under the guardianship of his grandfather and then his uncle Abu Talib.⁹⁶

Because he was called in the community of Mecca an "al- Amin", a trustworthy man, a wealthy woman named Khadijah appointed him to manage her business.⁹⁷ When he was twenty-five years old, he married Khadijah, who was forty years old.⁹⁸ Thus, it is observed in the period before his prophethood that "he enjoyed great respect for his judgment and trustworthiness."⁹⁹

Before the emergence of the Islamic religion, idol worship was prevalent in Mecca, but the majority of Arab tribes were indifferent to religious rituals.¹⁰⁰ From the legal aspect, no laws regulated the lives of Arab communities, and thus fighting, drinking, gambling and sexual activity

⁹⁵ Ibid

⁹⁶ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 5,6

⁹⁷ Ibid, p.6

⁹⁸ Geaves Ron, *Islam Today: An Introduction*, p. 7, Continuum International Publishing, (2010)

⁹⁹ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 6

¹⁰⁰ Geaves Ron, *Islam Today: An Introduction*, p. 6, Continuum International Publishing, (2010)

prevailed.¹⁰¹ Although laws and ethics were absent during that period, the Prophet Muhammad did not indulge in these shameful acts and behaviors.¹⁰²

2. 4. 1. The Historical Developments of Islamic Law

It is important to review the historical developments of Islamic law in order to show its rapid and widespread growth for more than 1,400 years. These developments that began in the seventh century can be segmented into seven legislative periods.

2. 4. 1. 0. The First Period: Formation of Islamic law.

This period began when the first revelation was given to the Prophet Muhammad. "Mohammad continued to receive divine revelations over a period of twenty-two years (610-632)." The gradual establishment of Islamic law during this period was a natural result of the different factors that surrounded the Prophet Muhammad, and thus, Islamic legislation in Mecca was radically different from the legislation in Medina. Therefore, this period must be divided into two historical stages: Islamic law in Mecca and Islamic law in Medina.

2. 4. 1. 0. 0. Islamic Law in Mecca

This stage continued over a period of twelve years (610-622). Very few laws were enacted, because the goal of the Islamic religion at this stage was concentrated on solidifying the Islamic faith in the minds of the people, the formation of the Muslim character, and the dissemination of Islamic ethics.¹⁰³

2. 4. 1. 0. 1. Islamic Law in Medina

In 622, the Prophet Muhammad decided to emigrate from his native city to Medina.¹⁰⁴ This migration marked a focal point in the history of Islamic law, because this new stage is considered the real beginning of the enactment of Islamic laws.¹⁰⁵ As a result, the immigration (hijra) to

¹⁰¹ Abdulkareem Zidan, *Introduction to Islamic Law*, Umar bin Al Khattab Publishing & Distribution, (2002), p. 25

¹⁰² Geaves Ron, *Islam Today: An Introduction*, p. 7, Continuum International Publishing, (2010)

¹⁰³ Wael Hallaq, *The Origins and Evolution of Islamic Law*, p. 19, Cambridge University Press, New York, (2009), also see Osama Al Hamoui, *Principles of Islamic Law*, Damascus University Press, 2009, p. 115, 116.

¹⁰⁴ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 8

¹⁰⁵ *Ibid*, p. 8-9

Medina was adopted as the beginning of the Muslim calendar.¹⁰⁶ With the creation of the Islamic community and the establishment of the Islamic state, the need appeared to promulgate rules to regulate relationships among the people, the individual's relationship to the state authority, and the relationships of Muslims with others either inside or outside of the Islamic state. The Prophet Muhammad was the governor and the judge for the state in Medina, in which Muslims and non-Muslims lived.¹⁰⁷ Therefore, the Prophet Muhammad enacted a constitution of the Islamic state that includes the first treaty in Islamic history.¹⁰⁸ This constitution regulated the administrative and judicial affairs of the Islamic state.¹⁰⁹ In addition, it "set out the rights and duties of all citizens and the relationship of the Muslim community to other communities"¹¹⁰. It stressed that all tribes under the Constitution of Medina must be ready to protect each other against internal and external threat.¹¹¹ Moreover, freedom of religion was guaranteed under this constitution. "Jews were recognized as a separate community allied to the Muslim Umma, but with religious and cultural autonomy"¹¹².

During this period, the role of the Prophet Muhammad was concentrated in the statement and interpretation of the Quran.¹¹³ It was revealed that the Quran and the Sunnah were the primary sources of Islamic law.¹¹⁴ Although the Prophet Muhammad depended on Ijtihad in a few cases, Ijtihad was not developed as an independent subject during this period, because, if he was mistaken, the divine revelation always warned him and corrected his Ijtihad quickly, and if he was

¹⁰⁶ Geaves Ron, *Islam Today : An Introduction*, Continuum International Publishing, (2010) , p. 9

¹⁰⁷ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 9

¹⁰⁸ Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, Center of Islamic Research and Studies, Iraq, Baghdad, (2008), p. 10

¹⁰⁹ Osama Al Hamoui, *Principles of Islamic Law*, Damascus University Press, 2009, p. 116.

¹¹⁰ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p. 9, also see Mustafa Al Zarqa, *The General Entrance to Jurisprudence*, Volume. 1, p. 63, The second edition, Dar Al- qalam Publishing & Distribution, Damascus (2004).

¹¹¹ Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, Center of Islamic Research and Studies, Iraq, Baghdad, (2008) , p. 39 & 60

¹¹² John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised third edition (2005), New York, p.9, see also Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, Center of Islamic Research and Studies, Iraq, Baghdad, (2008) , p. 53

¹¹³ Abdulkareem Zidan, *Introduction to Islamic Law*, Umar bin Al Khattab Publishing & Distribution, (2002), p. 109

¹¹⁴ Ibid

right in his Ijtihad, the divine revelation directly agreed with him. The Prophet Muhammad acted under the guidance of divine revelation.¹¹⁵

2. 4. 1. 1. The Second Period: Rashidun Caliphate

After the death of the Prophet Muhammad in 632, the period of al-Khulafa' al-Rashidun (Rashidun Caliphate) began and continued until the death of the last caliph in 661.¹¹⁶ The four Caliphs after the Prophet Muhammad were Abu Baker, Omar, Othman, and Ali.¹¹⁷ The situation during this period changed with the occurrence of new legal cases for which the Quran and the Sunnah did not provide, and thus the caliphs adopted Ijtihad as an independent legislative source. However, this Ijtihad was realism that was based on existing cases, not on hypothetical cases.¹¹⁸ The Companions were eligible to practice Ijtihad, since they had learned from the Prophet how to understand and conclude the provisions from the primary sources.¹¹⁹ If they did not find a provision for a new case in the Quran or the Sunnah, they met and discussed the new issue. If they agreed on one opinion to resolve the issue, this consensus of the Companions (Ijma) became a binding rule in the new case.¹²⁰ As a result of the large number of opinions of the Companions, this period has become an important reference to determine the legal principles of Islamic law. These legal opinions became judicial precedents for later periods.¹²¹ During this time this new source called Ijma (consensus of opinion) was added to the primary sources of the first period.¹²²

The Quran was first collated more than 15 years after Muhammad's death. In 647, Caliph Othman collected the Holy Quran into one volume. He then ordered that copies of the volume be distributed to all Islamic counties, and that all other copies of the Quran be burned. He feared that verses of the Quran would be distorted, which would create conflicts among Muslims.¹²³

¹¹⁵ Ibid, p. 116.

¹¹⁶ Manna' al-Qattan, The Legislation and Jurisprudence in Islam, 5th edition, Wahba Publishing & Distribution, Cairo, (2001), p. 183

¹¹⁷ Ibid, p. 186-188

¹¹⁸ Osama Al Hamoui, Principles of Islamic Law, Damascus University Press, 2009, p. 141.

¹¹⁹ Omar Al ashqar, The History of Islamic Jurisprudence, Dar Al-Nafaes Publishing & Distribution, Jordan, Amman (1991) , p. 74

¹²⁰ Osama Al Hamoui, Principles of Islamic Law, Damascus University press, 2009, p. 127.

¹²¹ Ibid, p. 142.

¹²² Abdulkareem Zidan, Introduction to the Study of Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002), p. 119

¹²³ Omar Al ashqar, The History of Islamic Jurisprudence, Dar Al-Nafaes Publishing & Distribution, Jordan, Amman (1991) , p. 69

The emergence of the first political split among the Islamic community during the end of this period was the turning point in the historical development of Islamic law.¹²⁴ This political split was the main reason for the legal split through the emergence of the Shia and Kharijites doctrines, which will be presented and discussed in the next chapters.¹²⁵

2. 4. 1. 2. The Third Period: Umayyad Caliphate

This era began with the establishment of the Umayyad caliphate in 660 and extended for 90 years until the end of this caliphate in 750.¹²⁶ The Quran and the Sunnah were still the sources of legislation as during the previous period, but Ijma was no longer possible, because Islamic law became divided into several schools.¹²⁷ There were many advisory opinions of Companions that were scattered among Muslim jurists, and thus emerged a new secondary source of Islamic law, namely Companion sayings.¹²⁸ The secondary sources, especially Qiyas and Istihsan, became accredited sources by the founder of the Hanfi School at the end of this period.¹²⁹ For the first time in the history of Islamic law, hypothetical jurisprudence began to emerge.¹³⁰

2. 4. 1. 3. The Fourth Period: The Prosperity of Islamic Law

This period began during the middle of the 7th century and extended up to the emergence of the Ottoman Empire.¹³¹ Within the first years of this period, the emergence of the science of Hadith was begun by Imam Malik around the year 768, when he collected and wrote down the Hadith in the book of Al-Muwatta'.¹³² Before this book, Hadith were written as personal notes but not for the purpose of public distribution.¹³³ With the great expansion of knowledge in every field of life and freedom of expression that jurists enjoyed, the real growth and maturity of Islamic law

¹²⁴ Osama Al Hamoui, Principles of Islamic Law, Damascus University Press, 2009, p. 141.

¹²⁵ Ibid.

¹²⁶ Abdulkareem Zidan, Introduction to Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002), p.132

¹²⁷ Osama Al Hamoui, Principles of Islamic law, Damascus University press, 2009, p. 142.

¹²⁸ Ibid.

¹²⁹ Manna' al-Qattan, Legislation and Jurisprudence in Islam, 5th edition, Wahba Publishing & Distribution, Cairo, (2001) , p.332

¹³⁰ Osama Al Hamoui, Principles of Islamic Law, Damascus University Press, 2009, p. 160.

¹³¹ Abdulkareem Zidan, Introduction to Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002), p.141

¹³² Osama Al Hamoui, Principles of Islamic Law, Damascus University Press, 2009, p. 197

¹³³ Abdulkareem Zidan, Introduction to Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002), p.143

occurred during this era. A number of major legal schools were the main factors in developing Islamic law. The Islamic community is divided into different doctrines, but the focus of this research is on the two main doctrines, the Sunni, and the Shia. The formation of legal schools in both doctrines generally occurred during this period.¹³⁴ It is beyond the scope of this section to examine the differences between the Sunni and Shia doctrines; rather, the aim of this section is to provide a general background of the historical developments of these legal schools to assist the reader to engage fully with Chapter 5 of this research.

2. 4. 1. 3. 0. Legal Schools of Islamic Doctrines

There are four main legal schools under the Sunni doctrine: Hanafi, Maliki, Shafi'i, and Hanbali. Sunni schools derive their names from the founders of the schools. On the other hand, Twelver, Zaydi and Ismaili are the only three legal schools that have survived within the Shia doctrine.

2. 4. 1. 3. 0. 0. Sunni Schools

2. 4. 1. 3. 0. 0. 0. The Hanafi School

The Hanafi School was founded by Abu Hanifah Nu'man ibn Thabit (d. 767). Abu Hanifah did not write any books on Islamic law himself, but he lectured to a group of students.¹³⁵ Abu Yusuf and al-Shaybani documented and compiled his lectures, discussions and opinions.¹³⁶

The Hanafi School derived its jurisprudence primarily from the Quran and the Sunnah, but it was the most flexible, because it always used logic or personal opinion in its Ijtihad to understand the primary sources.¹³⁷ This school also recognized the Ijma, Qiyas, Urf, and Istihsan.¹³⁸ The use of these sources led to the creation of legal principles to which all new similar cases were subject. Therefore, hypothetical jurisprudence was the prevalent approach of this school.¹³⁹

¹³⁴ Ibid, p.145

¹³⁵ Osama Al Hamoui, *Principles of Islamic Law*, Damascus University Press, 2009, p. 191

¹³⁶ Wael Hallaq, *An Introduction to Islamic Law*, Cambridge University Press 2009, p. 37

¹³⁷ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford, 2008 p. 70

¹³⁸ Ibid

¹³⁹ MH Kamali, *Shari'ah Law: An Introduction* (Oneworld Publications, Oxford, 2008, p. 70

The Ottoman caliphate officially adopted the Hanafi School in the beginning of the sixteenth century.¹⁴⁰ The Hanafi School thereafter became widespread in Turkey, Syria, Jordan, Lebanon, Pakistan, Afghanistan and India.¹⁴¹

2. 4. 1. 3. 0. 0. 1. The Maliki School

Malik ibn Anas al-Asbahi (d. 795) was the founder of the Maliki School in Madinah.¹⁴² The holistic approach to the understanding of Islamic law was the most prominent feature of this school. Malik adopted two secondary sources of Islamic law in addition to those known to other schools. Firstly, he added the source of the practice of the Madinaese, which was based on the fact that the people of Medina were in constant contact with the successive generations that still followed the approach of the Prophet.¹⁴³ Secondly, he added the source of public interest.¹⁴⁴ Thus, a follower of this school "would not rely on personal opinion if he could find authority in Hadith, but in doing so, he has occasionally relied on weak Hadith."¹⁴⁵ The Maliki School is concentrated in Medina, Egypt, Tunisia, and Al Andalous.¹⁴⁶

2. 4. 1. 3. 0. 0. 2. The Shafii School

The Shafii School was founded by Muhammed ibn Idris ash-Shafii (d. 820). Shafi adopted the Quran and the Sunnah as the primary sources of his school. He recognized the Ijma, Qiyas and the Companions' sayings as secondary sources, but with some conditions. This school required that all Muslim jurists be Ijma.¹⁴⁷ Qiyas was adopted in this school if a new case involved the same circumstances as in an existing case in the Quran or the Sunnah.¹⁴⁸ This school adopted the source of the Companions' sayings on the condition that there were no conflicting opinions among the Companions. If conflicting opinions existed, this school follows the opinion which of Companions.

¹⁴⁰ Ibid, p.73

¹⁴¹ Wael Hallaq, *An Introduction to Islamic Law*, Cambridge University Press 2009, p. 37

¹⁴² Muhammad Abu Zahra, *History of Islamic Doctrines*, Dar Al-Fikr Al-Arabi Publication, Cairo, p. 377

¹⁴³ Ibid, p. 399.

¹⁴⁴ Ibid, p. 401.

¹⁴⁵ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford, 2008, p. 75

¹⁴⁶ Muhammad Abu Zahra, *History of Islamic Doctrines*, Dar Al-Fikr Al-Arabi Publication, Cairo , p. 405, 406

¹⁴⁷ Ibid, p. 430, 438.

¹⁴⁸ Ibid, p. 436-440.

The Shafii School has become well established in the South of Egypt, East Africa, Southeast Asia, Palestine, Jordan, Southern Arabia and Syria.¹⁴⁹

2. 4. 1. 3. 0. 0. 3. The Hanbali School

The Hanbali School is the last founded of the Sunni legal schools. The founder of this school was Ahmad bin Hanbal.¹⁵⁰ This school is very similar to the Shafi School.¹⁵¹ The most common sources of this school were the Quran, the Sunnah, Ijma, Qiyas, and Companion sayings.¹⁵² The use of Qiyas by this school was limited to situations when no text in the Quran and the Sunnah was applicable to the issue at hand.¹⁵³ Bin Hanbal did not accept Qiyas if there was a relevant Companion saying.¹⁵⁴ The Hanbali School used Istishab widely on the condition that no text of the Quran and the Sunnah was applicable.¹⁵⁵ It is clear that this school established its jurisprudence basically on the sacred text. This school is now predominant in Qatar and Saudi Arabia. There are some followers of this school in Oman, Qatar, Bahrain and Kuwait.¹⁵⁶

2. 4. 1. 3. 0. 1. Shia Schools

The word Shia literally means "followers; members of party".¹⁵⁷ Shia doctrine was developed by the followers of Ali ibn Abi Talib, the son of the Prophet's uncle, who believed that he was the first caliph following the Prophet under guidance from God and that Abu Bakr, Omar and Othman were usurping the caliphate without legal right. According to Shia doctrine, Muslims must follow the Imams as the rightful leaders of the Muslim community. God chose the Imams beginning with Ali and then passing down to his male descendants or brothers.¹⁵⁸

¹⁴⁹ MH Kamali, *Shari'ah Law: An Introduction* (Oneworld Publications, Oxford 2008) p. 83

¹⁵⁰ Muhammad Abu Zahra, *History of Islamic Doctrines*, p. 491, Dar Al-Fikr Al-Arabi Publication, Cairo.

¹⁵¹ Osama Al Hamoui, *Principles of Islamic law*, Damascus University press, 2009, p. 217

¹⁵² Ibid, p.218.

¹⁵³ Muhammad Abu Zahra, *History of Islamic Doctrines*, Dar Al-Fikr Al-Arabi Publication, Cairo , p. 493

¹⁵⁴ Ibid.

¹⁵⁵ Ibid, p. 499.

¹⁵⁶ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008, p. 84

¹⁵⁷ Ibn Manzur, *Lisan al-Arab (The Arab Tongue)*, Volume: 8, p. 176 Dar Sader Publication; 3rd edition (2000)

¹⁵⁸ MH Kamali, *Shari'ah Law: An Introduction* ,Oneworld Publications, Oxford 2008, p. 87

2. 4. 1. 3. 0. 1. 0. The Twelver Imams School

The Twelver Imami school is widespread among the Shia community.¹⁵⁹ The name of this school was derived from the belief in the following twelve Imams as the leaders of Muslim community after the Prophet;¹⁶⁰

- "1. Ali, the son-in-law of the Prophet;
2. Al-Hasan, the son of Ali;
3. Al-Husayn, the second son of Ali;
4. Ali Zayn al-Abidin, the son of Husayn;
5. Muhammad al-Baqir, son of Zayn al-Abidin;
6. Ja'far al- Sadiq, son of Muhammad al-Baqir;
7. Musa al-Kazim, son of Ja'far;
8. Al-Raza, son of Musa;
9. Muhammad at-Taqi, son of Al-Raza;
10. Ali al-Naqi, son of Muhammad Taqi;
11. Al-Hasan al-Askari, son of Ali al-Naqi; and
12. Muhammad, son of al-Hasan al-Askari. "¹⁶¹

This school believes that the Twelfth Imam, known as the Mahdi, is still alive but is hiding and will appear to establish peace and justice in the world.¹⁶² In the absence of the Imam Mahdi, this school regards their jurists as the leaders and providers of guidance to the community.¹⁶³ The legal sources of this school are the Quran, the Sunnah, and Ijma.¹⁶⁴ According to this school, the Sunnah not only contains the sayings and acts of the Prophet Muhammad, but it also contains all of the sayings and acts of the Twelver Imams as a source of Islamic law at the same level as the Sunnah of the Prophet.¹⁶⁵ This school added another source of Islamic law to those known to Sunni

¹⁵⁹ Mustafa Al Zarqa, The General Entrance to Jurisprudence, Volume. 1, p.191, The second edition, Dar Al- qalam Publishing & Distribution, Damascus (2004).

¹⁶⁰ MH Kamali, Shari'ah Law: An Introduction Oneworld Publications, Oxford 2008, p. 88

¹⁶¹ Osama Al Hamoui, Principles of Islamic law, Damascus University Press, 2009, p. 228

¹⁶¹ Muhammad Abu Zahra, History of Islamic Doctrines, Dar Al-Fikr Al-Arabi Publication, Cairo , p. 622

¹⁶² Manna' al-Qattan, The Legislation and Jurisprudence in Islam, p. 272, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

¹⁶³ MH Kamali, Shari'ah Law: An Introduction, Oneworld Publications, Oxford 2008, p. 89.

¹⁶⁴ Osama Al Hamoui, Principles of Islamic law, Damascus University Press, 2009, p. 228

¹⁶⁵ Muhammad Abu Zahra, History of Islamic Doctrines, Dar Al-Fikr Al-Arabi Publication, Cairo , p. 622

schools, namely the rule of reason, which means that if the jurist cannot find a legal provision of a case in the previous sources of legislation, he considers the reasonableness of the thing in the perspective of the human mind and thus issues his decision.¹⁶⁶ This school is currently predominant in Iran, and also has followers in Iraq, India, Pakistan, Lebanon, and Syria.

2. 4. 1. 3. 0. 1. 1. The Ismailiya School

The Ismailiya School is very similar to the Twelver Imami School in its beliefs.¹⁶⁷ The main difference between them is that the Ismaili school believed in only seven Imams. They consider that Isma'il ibn Ja'far deserved to be the seventh Imam and not Musa al-kazim, because Isma'il was the eldest son of the sixth Imam, Ja'far al-Sadiq, while Musa was the younger son of Ja'far.¹⁶⁸ Therefore, the name of this school was derived from Isma'il ibn Ja'far. Moreover, this school believes that only Imams are able to access the inner meaning and interpretation of the Quran.¹⁶⁹ This school currently resides in southern Saudi Arabia and Syria and also has followers in India, Pakistan and Central Asia.¹⁷⁰

2. 4. 1. 3. 0. 1. 2. The Zaydiyya School

The founder of this school was Zayd bin Ali Zayn al-Abidin.¹⁷¹ This school's jurisprudence relied on the books of the founder of this school and other books that were edited by his students, who compiled and documented his lectures and discussions.¹⁷² The sources of this school were the Quran, the Sunnah, Ijma, Qiyas, Istihsan, and public interest.¹⁷³ In general the Zaydiyya School is the most similar to the Sunni schools.¹⁷⁴ The Zaydiyya, as does Sunni doctrine, maintained that Abu Bakr, Omar, Othman, and then Ali were sequentially the first four caliphs following the Prophet, and it rejected the principle of the infallibility of any Imam.¹⁷⁵ Therefore, the only reason

¹⁶⁶ Ibid, p. 670.

¹⁶⁷ Manna' al-Qattan, *The Legislation and Jurisprudence in Islam*, p. 272, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

¹⁶⁸ Ibid, p. 272

¹⁶⁹ MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008, p. 88 -92

¹⁷⁰ Ibid.

¹⁷¹ Manna' al-Qattan, *The Legislation and Jurisprudence in Islam*, p. 272, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

¹⁷² Muhammad Abu Zahra, *History of Islamic Doctrines*, p. 627, Dar Al-Fikr Al-Arabi Publication, Cairo.

¹⁷³ Ibid, p.632.

¹⁷⁴ Mustafa Al Zarqa, *The General Entrance to Jurisprudence*, Volume. 1, p.191, The second edition, Dar Al- qalam Publishing & Distribution, Damascus (2004).

¹⁷⁵ Ibid, p. 622.

to classify this school under Shia doctrine was that the founder of this school was a descendant of Ali and the fifth Imam of the twelve Shia Imams. This school is predominant in Yemen¹⁷⁶ and Oman.

2. 4. 1. 4. The Fifth Period: The Modern Codification of Islamic Law

With the advent of the Ottoman Empire, Islamic jurisprudence began to be codified in the form of modern laws.¹⁷⁷ From 1869 to 1876, a commission of scholars established the civil code of the Ottoman Empire, known as “The Mecelle”.¹⁷⁸ This civil code, which contains 1,851 articles, was issued in sixteen volumes and entered into force in the year 1877.¹⁷⁹ This civil code was based on the Hanafi School, which was the official school of the Ottoman Empire.¹⁸⁰ Moreover, the Ottoman Empire enacted the Ottoman Law of Family Rights in 1917.¹⁸¹ This law was codified as the law of personal status and specifically codified rules concerning marriage and divorce.¹⁸² It remains the legal reference in Islamic states even today. It was distinguished by relying on the four Sunni schools in enacting its laws.¹⁸³ This law remained in force in Syria until 1953.¹⁸⁴

2. 4. 1. 5. The Sixth Period: Islamic Law in Light of Foreign Colonialism

Under the effects of European colonialism and orientalist assumptions, Islamic laws were slowly replaced by Western laws.¹⁸⁵ Several Islamic regions under the power of colonialists were compelled to use foreign laws to interpret Islamic texts and practice Islamic law.¹⁸⁶ “Anglo-Muhammadan Law” was the prominent example of this historical development in Islamic law.

¹⁷⁶ Manna' al-Qattan, *The Legislation and Jurisprudence in Islam*, p.272, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

¹⁷⁷ Omar Al Ashqar, *The History of Islamic Jurisprudence*, p. 192, Dar Al-Nafaes Publishing & Distribution, Jordan, Amman (1991)

¹⁷⁸ Ibid, p.193.

¹⁷⁹ Mustafa Al Zarqa, *The General Entrance to Jurisprudence*, Volume. 1, p.226,227, The second edition, Dar Al- Qalam Publishing & Distribution, Damascus (2004).

¹⁸⁰ Ibid, p. 226.

¹⁸¹ Omar Al Ashqar, *The History of Islamic Jurisprudence*, p. 195, Dar Al-Nafaes Publishing & Distribution, Jordan, Amman (1991)

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Osama Al Hamoui, *Principles of Islamic law*, Damascus University press, 2009, p. 253

¹⁸⁵ Abdurhman Alsaboni, *The Entrance to study Islamic legislation*, Volume: 1, p. 241, Almatbaeuh Aljadida Publishing & Distribution, Damascus, (1978)

¹⁸⁶ Osama Al Hamoui, *Principles of Islamic law*, Damascus University press, 2009, p. 253

This law was adopted in British colonial courts in India and covered criminal and civil law.¹⁸⁷ It remained to be recognized in personal status law until the Muslim Personal Law Application Act (1937), which was established in India to apply Islamic law in personal affairs.¹⁸⁸

2. 4. 1. 6. The seventh Period: Islamic Law after Colonialism until Today

Despite the noticeable increase in emergence of new legal cases, there was no Islamic role in the early part of this period to find unified legal provisions for these new cases. Therefore, the scholars of Islamic law decided to establish the Jurisprudence Council. In Egypt, Al-Azhar University established the Islamic Research Academy (IRA) in 1961.¹⁸⁹ It consists of fifty member jurists of Islamic law, who represent all of the Islamic Schools and thus it has become a certified reference with respect to Islamic Research.¹⁹⁰ The Egyptian government issued a law regarding the re-organization of Al-Azhar University and included entities (Law no. 103) in 1961.¹⁹¹ This council was founded based on Article (11) of this law, which provided: "the Islamic Research Academy is the supreme body that studies all matters relating to Islamic research"¹⁹² In addition, the General Islamic Conference (GIC) was founded by the Muslim World League (MWL) to discuss major issues concerning Islam and Muslims.¹⁹³ The first council of GIC was in 1962 in Mecca.¹⁹⁴ MWL also established the Islamic Jurisprudence Council (IJC) which was "made up of a selected group of Muslim jurists and scholars who meet periodically to consider serious jurisprudence issues concerning the Ummah (world-wide Islamic community)".¹⁹⁵ It aimed to provide rulings based on the sources of Islamic law.

¹⁸⁷ The Oxford Dictionary of Islam, Oxford Islamic Studies Online, via: http://www.oxfordislamicstudies.com/article/opr/t125/e165?_hi=0&_pos=9# (Last access November 2015)

¹⁸⁸ Ibid.

¹⁸⁹ About the Islamic Research Academy, Al-azhar University, via: <http://www.azhar.eg/en/Research-Academy/About-us> (Last access November 2015)

¹⁹⁰ Ibid.

¹⁹¹ Law on the re-organization of Al-Azhar and included entities Law no. 103 for 1961, via: <http://www.egypt.gov.eg/arabic/laws/download/newlaws/%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%B1%D9%82%D9%85%20103%D9%84%D8%B3%D9%86%D8%A9%201961.pdf> (Last access November 2015)

¹⁹² Article 11 of the re-organization of Al-Azhar and included entities Law no. 103

¹⁹³ General Islamic Conference (GIC), the Muslim World League (MWL), via: <http://en.themwl.org/content/mwl-councils> (Last access November 2015)

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

2. 5. Application of Islamic Law by Islamic States

Since the establishment of the first Islamic state in Medina, Islamic law has existed as the only constitution for all following Islamic Caliphates or empires. In the current era, Muslim communities are not under one Islamic state. According to the Organization of Islamic Cooperation (OIC), 57 States have membership in this organization.¹⁹⁶ However, not all of these states apply the whole of Islamic law; they instead adopt a few codes of this law.¹⁹⁷ As a result, the application of Islamic law by nations that are classified as Islamic states is not uniform; they may be divided into the following three categories.

2. 5. 0. Complete Application of Islamic Law

The full application of Islamic law is considered to be when the constitution declares expressly that Islamic law is the common law of the country. Judging by state constitutions, Saudi Arabia is the most prominent Islamic Sunni state that fully applies Islamic law. Article 1 of the Basic Law of the Saudi Government declares: "The Kingdom of Saudi Arabia is a fully sovereign Arab Islamic State. Its religion shall be Islam and its constitution shall be the Book of God and the Sunnah (Traditions) of His Messenger, may God's blessings and peace be upon him (PBUH)."¹⁹⁸ Pakistan also completely adheres to Islamic law. Article 227 of the Constitution of Pakistan states: "All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah."¹⁹⁹

2. 5. 1. Partial Application of Islamic Law

Partial application of Islamic law is classified as when the constitution adopts the principles of Islamic law as one of the primary sources of legislation. The majority of Islamic states fall under this category.²⁰⁰ For example, Article 2 of Egypt's Constitution of 2014 states: "The principles of

¹⁹⁶ See Website of the Organization of Islamic Cooperation (OIC) via: http://www.oic-oci.org/oicv2/page/?p_id=52&p_ref=26&lan=en (Last access October 2015).

¹⁹⁷ Anver M Emon, Mark S Ellis, and Benjamin Glahn, *Islamic law and international human rights law*, Oxford University Press, (2012), p. 67

¹⁹⁸ Basic Law of Saudi Government, Website of Bureau of Experts at the Council of Ministers via: <https://www.boe.gov.sa/ViewStaticPage.aspx?lang=en&PageID=25> (Last access October 2015).

¹⁹⁹ Constitution of the Islamic Republic of Pakistan, via: <http://www.pakistani.org/pakistan/constitution/part9.html> (Last access October 2015).

²⁰⁰ Anver M Emon, Mark S Ellis, and Benjamin Glahn, *Islamic law and international human rights law*, Oxford University Press, (2012), p. 67

Islamic law are the chief source of legislation."²⁰¹ Similarly, Article 7 of the Constitution of the United Arab Emirates declares: "The Islamic Sharia shall be a main source of legislation in the Union."²⁰² In the same way, Iran, which is the largest Shiite state, adopts the principles of Islamic law. Article 4 of the Islamic Republic of Iran Constitution states: "All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the fuqaha' of the Guardian Council are judges in this matter."²⁰³

2. 5. 2. Non-Application of Islamic Law

This is evident in secular states, in which there is no place for Islamic law in the legislation. Turkey is a clear example of a Muslim-majority nation that does not apply Islamic law. Article 138 of the Turkish constitution states that the judges "shall give judgment in accordance with the Constitution, law, and their personal conviction conforming with the law."²⁰⁴

2. 5. 3. Application of Islamic Criminal Law by Islamic States

Based on fact that the subject of this thesis is related to hate speech, which is usually classified under criminal law, the aim of this section is to provide a general background about the application of Islamic criminal law by Islamic states to give the readers a clear vision with which to engage fully with the next chapters.

The Western colonial powers have the most influence towards the continued reliance on Western laws in some Islamic States.²⁰⁵ Although the direct application of Islamic law has been decreasing, some Islamic countries have reintroduced the substantive aspect of Islamic criminal law in place of Western criminal codes.²⁰⁶ However, they have continued to depend on the

²⁰¹ Constitution of The Arab Republic of Egypt 2014, via:

https://www.constituteproject.org/constitution/Egypt_2014.pdf (Last access October 2015)

²⁰² See Constitution of United Arab Emirates, via: <http://www.refworld.org/pdfid/48eca8132.pdf> (Last access October 2015)

²⁰³ Islamic Republic of Iran Constitution, via: <http://www.iranonline.com/iran/iran-info/government/constitution-1.html> (Last access October 2015)

²⁰⁴ Constitution of the Republic of Turkey, via: http://www.hri.org/docs/turkey/part_iii_3.html (Last access October 2015)

²⁰⁵ Anver M Emon, Mark S Ellis, and Benjamin Glahn, *Islamic law and international human rights law*, Oxford University Press, (2012), p. 63,64

²⁰⁶ Rudolph Peters, *Crime and Punishment in Islamic Law*, Cambridge University Press, New York, p.142

regulatory formats of Western law especially with regard to the organization of the courts and the litigation procedure.²⁰⁷ Over the past forty-five years, several Islamic countries have formally practiced Islamic criminal law and issued codes of criminal law in conformance to Sharia. Saudi Arabia is the most prominent example of the complete application of Islamic criminal law, where Sharia is the only adopted source of all legislation.²⁰⁸ Since 1973, several countries have enacted criminal codes based mostly on Islamic law, such as Libya (1973)²⁰⁹, the United Arab Emirates (1978)²¹⁰, Pakistan (1979)²¹¹, Sudan (1991)²¹², Yemen (1994)²¹³, and Iran (1996)²¹⁴.

Islamic criminal law classifies crimes, depending on the type of offense, into three different categories.

²⁰⁷ Ibid, p.143

²⁰⁸ According to article (1) of Criminal procedure code that states "Courts shall apply Shari'ah principles, as derived from the Qur'an and Sunnah (Traditions of Prophet Muhammad peace be upon him) to cases brought before them. They shall also apply state promulgated laws that do not contradict the provisions of the Qur'an and Sunnah, and shall comply with the procedure set forth in this Law." For more details via: <https://www.boe.gov.sa/ViewSystemDetails.aspx?lang=ar&SystemID=127&VersionID=304>

²⁰⁹ Law No. 70 of 1973 regarding the establishment of adultery punishment and amending some provisions of the Penal Code in conformity to the primary principles of Islamic law, Website of Libyan Ministry of Justice, via: <http://aladel.gov.ly/home/?p=1352>

²¹⁰ According to article (1) of Federal Law No (3) of 1987 on Issuance of the Penal Code, providing that: "Provisions of the Islamic Law shall apply to the crimes of doctrinal punishment, punitive punishment and blood money. Crimes and chastisement punishments shall be determined in accordance with the provisions of this law and other penal codes." via: [https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/\\$FILE/Penal%20Code.pdf](https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/$FILE/Penal%20Code.pdf)

²¹¹ For more details see the law of the Offence of Adultery, ordinance, 1979 which was in conformity with the injunctions of Islam, via:

http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html

²¹² See the Criminal Act of Sudan for 1991, via:

[https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/\\$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf](https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf) (Last access October 2015).

²¹³ See the Criminal Procedures for 1994, via:

<http://www.refworld.org/pdfid/3fc4bc374.pdf>

(Last access October 2015).

²¹⁴ See Islamic Penal Code of the Islamic Republic of Iran – Book Five, via:

<http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#1>

(Last access October 2015).

First, the Hudud crimes are offenses against God, the penalties for which are specified by the primary sources of Islamic law.²¹⁵ There are six types of these crimes²¹⁶:

1. Fornication, which means "sexual intercourse outside of marriage" by unmarried person, is punished by lashing;
2. Voluntary sexual intercourse between a married person and a person who is not his or her spouse, especially of sexual relations occurring outside marriage, is punished by stoning to death;
3. Theft is punished by cutting off the thief's hand;
4. Drinking alcohol is punished by lashing;
5. Highway robbery or armed robbery, which is "synonymous with waging war against the society", is punished based on the extent of the crime, ranging from amputation to execution; and
6. False accusation of adultery is punished by lashing.

Second, the Qesas crimes are offenses that depend on physical assault and murder against an individual or a family.²¹⁷ The punishment of these crimes is equal retaliation according to the primary sources.²¹⁸ Third, the Tazir crimes are not specified in the primary sources and are subject to the discretion of the Judge.²¹⁹

²¹⁵ Haleem Abdel, Edge Ian, and Sharif Adel, *Criminal Justice in Islam : Judicial Procedure in the sharia*, p. 5, I.B. Tauris, (2003)

²¹⁶ Wahba Ben Mustapha Al Zoheily, *Islamic Jurisprudence*, Volume. 7, p. 5362 -5488 , Dar al-Fikr Publication, Damascus, Syria, (2009)

²¹⁷ Haleem Abdel, Edge Ian, Sharif Adel, *Criminal Justice in Islam : Judicial Procedure in the Shari'ah*, p. 6, I.B. Tauris, (2003)

²¹⁸ Weimann Gunnar J, *Islamic Criminal Law in Northern Nigeria : Politics, Religion, Judicial Practice*, p. 23, Amsterdam University Press, (2010)

²¹⁹ Rudolph Peters, *Crime and Punishment in Islamic Law*, Cambridge University Press, New your, p.65,66

Chapter 3: *The Line between Freedom of Expression and Hate Speech in the Perspective of International and Regional instruments, Islamic national laws and Islamic organizations.*

"Even if we believe that free speech is a fundamental value, that does not give us carte blanche to say what we like in any context, regardless of consequence or effect. Respect for others, especially in an increasingly interdependent world, is a value of at least equal importance." Martin J²²⁰

3. 0. Introduction

Freedom of expression is one of the fundamental human rights in democratic societies that are based on the principle of equality in the freedoms and rights of all people around the world. This freedom is vital to promote peaceful coexistence in multicultural societies.²²¹ Every person has the right to express and disseminate his own opinions, and the right to access, receive and share information and ideas in any medium, whether it is audible or written, including modern means of communication. Accordingly, freedom of expression, as a profound concept, includes a set of rights, such as: the right to privacy, religion or belief, cultural or political affiliation, and freedom of the press. However freedom of expression can be subjected to limitations and restrictions as is the situation with most human rights. Thus, this chapter provides an overview of the right to freedom of expression under international law. It begins by focusing on the international documents that protect freedom of expression and establish the demarcation between this freedom and hate speech at the international level. Freedom of expression will also be discussed as defined by regional treaties such as: the European Convention on Human Rights, the American Convention on Human Rights, the Arab Charter of Human Rights, and the African Charter on Human and Peoples' Rights. Then, it moves on to discuss freedom of expression through the legislation of certain Islamic states and through instruments of some Islamic regional organizations. Throughout this chapter, the issue of when and how the right can be legitimately restricted will be addressed. Also, this chapter discusses whether international and regional laws, as well as Islamic national law provide a precise definition of hate speech based on restrictions imposed on freedom of expression that will be addressed.

²²⁰ Martin J (2006). Europe's contempt for other cultures can't be sustained, The Guardian, February 17, 2006,

²²¹ Beston and Cripps, Freedom of expression and freedom of information: essays in honour of Sir A. Mason, p. 17 (Oxford University Press, Oxford 2000)

3. 1. Freedom of Expression: United Nations Treaties

3. 1. 0. Protecting Freedom of Expression

The primary international legal source protecting the right to freedom of expression is Article 19 of the International Covenant on Civil and Political Rights (ICCPR). This article protects the right not only to express opinions and thoughts, but also to access and receive information. The article states that:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

a) for respect of the reputation or rights of others

b) for the protection of national security or of public order, or of public health or morals."²²²

The covenant, as in paragraph 1, emphasizes that the right to freedom of expression does not allow any exceptions. It grants this freedom to "Everyone" which means natural persons (such as: journalists, students, teachers, men, women, old, young, etc.) and legal persons (such as: organizations, companies, institutions, etc.) must be granted this right. By the same token, the Convention on the Elimination of Racial Discrimination (CERD)²²³, the United Nations

²²² The International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, Article 19

²²³ International Convention on the Elimination of All Forms of Racial Discrimination. Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969.

Article 5(d)(viii) states that:

"In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: .. (d) Other civil rights, in particular: .. (viii) The right to freedom of opinion and expression"

Convention on the Rights of the Child (UNCROC)²²⁴, and the Convention on the Rights of Persons with Disabilities (CRPD)²²⁵ also declare that the right to freedom of expression is a substantial right.

According to paragraph 2, the right to access and receive information is an integral part of the right to freedom of expression. This right protects the forms in which the ideas and information, including spoken, written and sign language and such non-verbal expression as images and objects of art, are conveyed. In addition, the right to choose means of dissemination, including books, newspapers, pamphlets, posters, banners, dress and legal submissions, are protected. The term "Other media", as mentioned in paragraph 2, includes television, social media, theatres, and any other form of mass media which might appear in the future. Along the same lines, article 13 of the United Nations Convention on the Rights of the Child (UNCROC)²²⁶ makes almost identical declarations relating to the right to access and receive information as ICCPR, but specifically in relation to the rights of the child.²²⁷ Although the Convention on the Rights of Persons with Disabilities (CRPD)²²⁸ is consistent with the ICCPR in granting the right of access to information,

²²⁴ Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.

Article 13 states that:

"1. The child shall have the right to freedom of expression"

²²⁵ The Convention on the Rights of Persons with Disabilities adopted and opened for signature, and entered into force on 3 May 2008. The article 21 states that:

"States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion."

²²⁶ The United Nations Convention on the Rights of the Child, Article 13 states that:

"1. ... this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

To make children be immune from information and material injurious, the convention urged States to raise awareness and develop guidelines about that. Article 17 states that:

" .. States Parties shall:

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18."

²²⁷ Thorgeirsdottir, Herdis, Commentary on the United Nations Convention on the Rights of the Child, Article 13 : The Right to Freedom of Expression, p.7 , Martinus Nijhoff (2006). See, also, Lievens, Eva, Protecting Children in the Digital Era : The Use of Alternative Regulatory Instruments (1), p. 263- 289, BRILL (2010)

²²⁸ The article 21 states of CRPD that:

" States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

it addresses this right of persons with disabilities in different forms.²²⁹ It mentions specific forms of access to information (such as sign language, Braille, new communication technologies and other means) that promote the ability of persons with disabilities to enjoy this right on an equal basis with others.²³⁰

3. 1. 1. Restrictions imposed on Freedom of Expression

To know whether freedom of expression may be subject to certain restrictions, when these restrictions are permitted and what is the scope of the permissible restrictions, this section addresses relevant international laws. Article 19 of ICCPR, in paragraph 3, explicitly emphasizes that freedom of expression carries with it special duties and responsibilities. Restrictions on this freedom are necessary to protect the rights of other persons or those of the community as a whole. The Office of the United Nations High Commissioner for Human Rights, in a general comment on Article 19, states that: "the exercise of the right to freedom of expression carries with it special duties and responsibilities and for this reason certain restrictions on the right are permitted which may relate either to the interests of other persons or to those of the community as a whole."²³¹ In addition, Paragraph 3 determines conditions for restrictions that may be imposed on freedom of expression. These conditions are "provided by law", and "necessary". The exercise of freedom of expression, and the development of necessary restrictions on this freedom are subject to national legislation based on article (29/2) of the Universal Declaration of Human Rights (UDHR).²³² This

b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

e) Recognizing and promoting the use of sign languages.

Both these conventions refer to limitations on the right to freedom of expression. This indicates that certain categories of expression, such as pornography and speech inciting racial violence, are more likely to be subject to reasonable limitations than others, such as political or social speech."

²²⁹ Arnardttir, Oddny Mjall, Quinn, G, UN Convention on the Rights of Persons with Disabilities : European and Scandinavian Perspectives. p. 19-20, Martinus Nijhoff (2009)

²³⁰ Nancy Flowers, Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities, Part 2, Chapter 4, p. 48 Second edition, 2012, University of Minnesota Human Rights Center.

²³¹ Office of the High Commissioner for Human Rights, General Comment No. 10: Freedom of expression (Art. 19), para 4, 19th session on 29/06/1983.

²³² The Universal Declaration of Human Rights, Adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris., Article (29/2)

article establishes that freedom of expression, as a fundamental right, must be subject to some necessary restrictions by national law for the purpose of protecting others' rights, public order, and the general interest. However, the direction of the exercise and limitations of this right in national laws should be in accordance with the purposes and principles of the United Nations according to article (29/3) of UDHR.²³³ Article (29/2) has determined the scope of necessary restrictions by the words "securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". The necessary restrictions mean that the essence of the right to freedom of expression must be guaranteed and respected by national law, and those limitations must be restricted to ensuring that the rights of others are not violated. The Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, in his report to the Human Rights Council in 2010, suggested a set of principles for determining the conditions that must be satisfied in order for a restriction on freedom of expression to be permissible. He stressed that any restriction must be provided in accordance with the framework of international human rights law and the principles deriving therefrom, and States should apply these restrictions in a just manner, which would prevent the abuse of restrictions or limitations for political ends and the violation of other rights.²³⁴ As with most freedoms, there is a need to establish a balance between these freedoms and restrictions, on the basis that freedom without any restrictions may cause violation of other rights, such as the right to privacy.

It is also necessary to take into consideration the convenience principle. The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred determined three conditions for restrictions on freedom of expression (legality, proportionality and necessity). The Rabat Plan declared that:

"the three-part test for restrictions (legality, proportionality and necessity) also applies to incitement cases, i.e. such restrictions must be provided by law, be narrowly defined to serve a legitimate interest, and be necessary in a democratic society to protect that interest. This implies, among other things, that restrictions: are clearly and narrowly defined and respond to a pressing social need; are the least intrusive measures available; are not overly broad, in that they do not restrict speech in a wide or untargeted way; and are proportionate

²³³ The Universal Declaration of Human Rights, Article (29/3)

²³⁴ United Nations Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 14th session, A/HRC/14/23, 20 April 2010.

in the sense that the benefit to the protected interest outweighs the harm to freedom of expression, including in respect to the sanctions they authorise."²³⁵

3. 2. Freedom of Expression: Regional Treaties

To better understand the interplay between the principle of freedom of expression and limitations and restrictions imposed on it, a comparative study is in order. The previous section already studied how international instruments read the concept of freedom of expression. This section will further discuss the matter of interpretation regionally, including European, Arab and African organizations. The major focus will be on article 10 of the European Convention on Human rights (ECHR)²³⁶, because this is considered one of the most important sources of human rights law, especially relating to protecting freedom of expression, and prohibiting hate speech.²³⁷

3. 2. 0. Protecting Freedom of Expression

Article 10 of ECHR states that:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by

²³⁵ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012. In 2011, UN High Commissioner for Human Rights Commission held a series of sessions that brought together experts from around the world who discussed issues related to incitement to hate based on nationality, race, or religion in light of the International Human Rights Law. The main purpose of the series was to find appropriate means that would stop hate speech through conducting "a comprehensive assessment of the implementation of legislation, jurisprudence and policies regarding advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence at the national and regional levels, while encouraging full respect for freedom of expression as protected by international human rights law. This activity focused on the relationship between freedom of expression and hate speech, especially in relation to religious issues – a matter that has unfortunately come increasingly under focus and created friction and violence among and within diverse communities."

In order to achieve these objectives, the Office of the United Nations High Commissioner for Human Rights (OHCHR) held four workshops in Europe (Vienna, 9 and 10 February 2011), in Africa (Nairobi, 6 and 7 April 2011), in Asia and the Pacific (Bangkok, 6 and 7 July 2011), and in the Americas (Santiago de Chile, 12 and 13 October 2011). To benefit from the results, the OHCHR convened in 2012 a final expert workshop (in Rabat, 4 and 5 October 2012) to produce a comparative analysis of the findings of the four workshops, to identify possible action at all levels, and to reflect on the best ways and means of sharing experiences. The full text of this document can be found in Appendix I

²³⁶ The Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights, was opened for signature in Rome on 4 November 1950 and came into force in 1953.

²³⁷ Donohue, L.K. (2008) 'Terrorist Speech and Free Expression', in *The Cost of Counterterrorism: Power, Politics, and Liberty*. Cambridge: Cambridge University Press, p. 289

public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."²³⁸

This article, in paragraph 1, states the right of people to express opinions, and access, receive and share information and ideas in any medium without interference by governments.²³⁹ Thus, it expresses nearly the same concept as the international instruments referenced above. It is noteworthy that the application of the concept of freedom of expression in the perspective of the European Court is very broad. The Court considers expressions that "offend, shock or disturb" to fall under the allowed right of freedom of expression in a democratic society. The Court held that:

"Art. 10 is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broad mindedness without which there is no "democratic society"²⁴⁰

Other regional instruments relevant to the right to freedom of expression include the American Convention on Human Rights (article 13/ para: 1 & 3)²⁴¹, the African Charter on Human

²³⁸ Article 10 of the European Convention on Human Rights (ECHR).

²³⁹ G Malinverni, 'Freedom of Information in the European Convention on Human Rights and in the International Covenant on Civil and Political Rights' (1983) 4 Human Rights Law Journal 443.

²⁴⁰ Handyside v. the United Kingdom, Judgement of 7 December 1976, Application no. 5493/72

²⁴¹ The American Convention on Human Rights, adopted at the Inter American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969. Article 13, paragraph 1 and 3 declare that:

"1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions."

and Peoples' Rights (article 9)²⁴², and the Arab Charter of Human Rights (article 32/ para: 1)²⁴³, which use almost the same words as the international instruments such article 19 (1) of the ICCPR, and article 10 (1) of ECHR.

3. 2. 1. Restrictions Imposed on Freedom of Expression

To help determine whether limitation of freedom of expression by parties of the ECHR is legitimate or not, article 10, paragraph 2, of the ECHR gives three standards that authorize states to put restrictions on the freedom of expression.

The first standard, "Prescribed by Law", means restrictions on the freedom of expression can only be imposed based on of stipulated rule, case law, and common law²⁴⁴. The second standard states that a restriction must be "Necessary in a Democratic Society". This means that "the necessity for any restrictions must be established convincingly"²⁴⁵ through the presence of "pressing social need" for that limitation.²⁴⁶ Accordingly, the interference by states must be very narrow and based only on pressing need to limit freedom of expression. In the case that the law has not prescribed something else, "the legitimate aim" is the third standard which can be used to

²⁴² African Charter on Human and Peoples Rights, Adopted on June 01, 1981, and entry into force: October 21, 1986.

Article 9 states that:

"1. Every individual shall have the right to receive information.

2. Every individual shall have the right to express and disseminate his opinions within the law."

²⁴³ The Arab Charter on Human Rights was adopted by the Council of the League of Arab States on 22 May 2004 and entered into force March 15, 2008.

Article (32) also stressed that:

"1. The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.

2. Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals."

²⁴⁴ Prescribed by law means that restrictions on the freedom of expression only imposed based on the basis of stipulated rule, case law, and the common law. See Elena Mihajlova, Freedom of expression and hate speech, p. 13, Polyesterday, Skopje (2013).

²⁴⁵ The Observer and Guardian v. UK (App No 13585/88) (1991) Series A 216 § 59.

²⁴⁶ Ibid, Series A 216 § 40. The Court states:

"Account should be taken of Article 10 (art. 10) of the Convention and the judgments of the European Court establishing that a limitation of free expression in the interests of national security should not be regarded as necessary unless there was a "pressing social need" for the limitation and it was "proportionate to the legitimate aims pursued"

determine the validity of limiting freedom of expression.²⁴⁷ Article 10 refers to these legitimate aims with the words;

"the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary".

To ensure a balance between the freedom of expression and the necessity of its restriction, the European Court, in the case of *Handyside v. the United Kingdom*, has adopted the principle of proportionality to the legitimate aim pursued.²⁴⁸

Article 13, paragraph 2 of ACHR agrees with the international instruments and the ECHR with respect to standards of restrictions on freedom of expression.²⁴⁹ This article states that restrictions "shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals."²⁵⁰ In the same way, the Declaration of Principles on Freedom of Expression in Africa clearly determines three standards as mentioned in article II paragraph 2 that states: "Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society."²⁵¹ On the other hand, article 32 paragraph 2 of the Arab Charter on Human Rights is confined to two criteria for the application of restrictions on freedom of expression, which are that limitations must be necessary and based on legitimate aims. This article states that: "Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals."²⁵² It is noticeable that this article does not state that such restrictions must be "prescribed by law". The absence of this standard in the ACHR is regrettable, because it is an

²⁴⁷ Barendt, Eric (2009) "Freedom of Expression in the United Kingdom Under the Human Rights Act 1998," *Indiana Law Journal*: Vol. 84: Iss. 3, Article 4, p. 862. Available at: <http://www.repository.law.indiana.edu/ilj/vol84/iss3/4>

²⁴⁸ *Handyside v. the United Kingdom*, Application no. 5493/72, Judgment 7th December 1976

²⁴⁹ Úbeda de Torres, Amaya. "Freedom of Expression under the European Convention on Human Rights: A Comparison With the Inter-American System of Protection of Human Rights." *Human Rights Brief* 10, no. 2 (2003): 6-9, 12

²⁵⁰ The American Convention on Human Rights, Article 13, para 2.

²⁵¹ Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights, 32nd Session, 17 - 23 October, 2002: Banjul, The Gambia.

²⁵² The Arab Charter on Human Rights, Article 32, para 2.

essential element stipulated by most of the international and regional instruments as mentioned above.

3. 3. Hate Speech Under International and Regional Instruments

Hate speech is present in all societies to varying degrees. With a high frequency of political and religious differences, hate speech often presents itself as a defender of rights, but in a brutal and uncivilized form that leads to violation of the rights of others. This speech plays a pivotal role in incitement to violence or ethnic and religious discrimination. Incitement, in all its forms, is unacceptable under international criminal law. With the increasingly rapid development of media, radio, television, and modern technology, hate speech has become more dangerous than carrying arms or paying others to do violent acts, because it not only has purposes to the prevalence of violence but also directs and moves peaceful people to fall into the cycle of violence. In addition, in light of the remarkable developments in the global political scene, hate speech has spread dramatically and thus, it has been a prominent cause in igniting many international conflicts, especially in the Middle East.

The right to freedom of expression, in its essence, is protected and guaranteed by all international and regional instruments, even by national laws, as the right that achieves the principle of pluralism of ideas and contributes to the wealth of knowledge through communication in democratic communities. However, that freedom of expression must still be subject to certain restrictions in certain circumstances to ensure that the expansion of this freedom does not pose a threat to others.

The issue that should be focused on here is whether the restrictions on freedom of expression in international and regional instruments precisely define the concept of hate speech even ensure that the door does not stay open to multiple and divergent interpretations of this speech and confusion of hate speech with the concept of freedom of expression. After the World War II tribunals, the international community realized the need to reach a series of agreements in order to maintain peace and respect for human dignity and human rights. In addition to the above articles that determined standards of restrictions on freedom of expression, some other articles specify more clearly descriptions of the prohibited expressions under international law.

Article 20 of the ICCPR requires that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law"²⁵³

Similarly, Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) states:

"States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."²⁵⁴

Article 13 paragraph 5 of the American Convention on Human Rights is in agreement with article 20 of the ICCPR, and article 4 of the ICERD when it states:

"Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law."²⁵⁵

Article 20 of the ICCPR, article 4 of the ICERD, other articles that determine several forms of the forbidden expressions, and articles that draw the scope of limitations are in full accordance with and complement each other. The forms that are addressed in article 20 of the ICCPR, and article 4 of the ICERD fall under the restriction mentioned in article 19, paragraph 3. As such, a

²⁵³ The International Covenant on Civil and Political Rights, Article 20

²⁵⁴ The Convention on the Elimination of All Forms of Racial Discrimination, Article 4

²⁵⁵ The American Convention on Human Rights, Article 13

limitation that is justified on the basis of article 20 of the ICCPR or article 4 of the ICERD must also comply to the conditions of limitations in article 19, paragraph 3.

The General Comment no. 34 by the Committee on Human Rights, in point 50- 52, states:

“50- Articles 19 and 20 are compatible with and complement each other. The acts that are addressed in article 20 are all subject to restriction pursuant to article 19, paragraph 3. As such, a limitation that is justified on the basis of article 20 must also comply with article 19, paragraph 3.51. What distinguishes the acts addressed in article 20 from other acts that may be subject to restriction under article 19, paragraph 3, is that for the acts addressed in article 20, the Covenant indicates the specific response required from the State: their prohibition by law. It is only to this extent that article 20 may be considered as *lex specialis* with regard to article 19.

52. It is only with regard to the specific forms of expression indicated in article 20 that States parties are obliged to have legal prohibitions. In every case in which the State restricts freedom of expression it is necessary to justify the prohibitions and their provisions in strict conformity with article 19.”²⁵⁶

As regards restrictions on freedom of expression in the light of the ECHR, the European Court of Human Rights applied Article 17, in addition to article 10, to address expressions which call to violence or racial hatred, and exclude them from enjoying the freedom of expression.²⁵⁷

Article 17 of the ECHR states that:

"Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”²⁵⁸

²⁵⁶ General Comment no. 34 by the Committee on Human Rights, via:

<http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access February 1, 2017)

²⁵⁷ Honsik v Austria, European Commission of Human Rights, Application No. 25062/94, Report of the Commission 18 October 1995.

This case addressed the issue of hate speech on the basis of racial discrimination. The Commission stated in this case:

"the Commission has found that the freedom of expression enshrined in Article 10. (Art. 10) of the Convention may not be invoked in a sense contrary to Article 17". See, also, Norwood v United Kingdom, Application no. 23131/03 Decision on admissibility, 16th July 2003.

This case addressed incitement expression against a particular group. The court stated in this case:

"The general purpose of Article 17 is to prevent individuals or groups with totalitarian aims from exploiting in their own interests the principles enunciated by the Convention. The Court, and previously, the European Commission of Human Rights, has found in particular that the freedom of expression guaranteed under Article 10 of the Convention may not be invoked in a sense contrary to Article 17 ", Also, see Buyse, A. (2014), *Dangerous Expressions: The Echr, Violence and Free Speech*, International and Comparative Law Quarterly, (2014), p. 494- 496

²⁵⁸ the European Convention on Human Rights article 17

3. 3. 0. The General Standards of Hate Speech

Based on the above articles, hate speech, as a concept, includes many extreme styles of negative expression. The concept of hate speech is used by a wide range of people in various forms and in different contexts.²⁵⁹ However, it is possible to derive five criteria: form, promoter, content, context, and potential impact of speech, to discuss the concept of hate speech, identify the constraints on freedom of expression and identify incitement to hating. The Rabat Plan added another standard, which is "intent".²⁶⁰ In fact, the standard of "context of speech" is sufficient, because the context determines the intention of the promoter of speech.

3. 3. 0. 0. The Form of Speech

These articles indicate that the form of expression is not confined to the form of direct speech, but includes all acts that constitute incitement to discrimination, hostility or violence, such as promoting, supporting, publishing, distributing, or establishing organizations, and participating in such organizations or activities.²⁶¹ That means that any action supporting the incitement must be subjected to limitations, whether that action takes the form of public support, justification, publishing, holding or participating in meetings or conferences providing financial support, sponsorship, or protection of it. This concept includes all the procedures and facilities that publicly or secretly support this speech, such as: public use of insulting symbols (for instance, swastika, and cartoons depicting the Prophet Mohammed), their explicit presentation at parades, protest, public address, etc., burning crosses (this is characteristic for the Ku Klux Klan in the USA), burning flags, putting up posters, distribution and dissemination of leaflets with such contents, expression through TV and radio and in recent times, expression via Internet.²⁶²

²⁵⁹ Lawrence M. Mute, Legislation, hate speech, and freedom of expression in Kenya, Pambazuka News: Voice for Freedom and Justice, (2008)

²⁶⁰ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

²⁶¹ Buyse, A. (2014), Dangerous Expressions: The Echr, Violence and Free Speech, International and Comparative Law Quarterly, (2014), p. 501-502

²⁶² Elena Mihajlova, Freedom of expression and hate speech, p. 25, Polyesterday, Skopje (2013)

3. 3. 0. 1. The Content of Speech

The content of expression refers to the areas covered by the expression. Also, the content of hate speech includes any incitement against people with mental disabilities according to article 2 of the Convention on the Rights of Persons with Disabilities.²⁶³ Moreover, the European Court of Human Rights considers that any content referring to sexual orientation is considered prohibited expression.²⁶⁴

3. 3. 0. 2. The Promoter of Speech

The articles emphasize that a promoter of an expression includes any individual or any group with an official capacity, or any ordinary person or a unofficial group. Promotion of hostile expression is not sufficient grounds to be considered a promoter of hate speech without consideration of the extent of influence that will be addressed later.

3. 3. 0. 3. The Context of Speech

These above articles clearly specify certain contexts that determine the intention of the promoter of the extreme expression as follows:

- a. the context of national hatred,
- b. the context of racial hatred,
- c. the context of religious hatred,
- d. the context of incitement to hostility or violence,
- e. the context of discrimination in any form, including those of race, color, religion, language, or national origin
- f. the context of advocacy for war.

²⁶³ The Convention on the Rights of Persons with Disabilities, Article 2 that states:

" The principles of the present Convention shall be: .. Non-discrimination"

²⁶⁴ See L. and V. v. Austria - 39392/98 and 39829/98, Judgment 9.1.2003. The European Court considers sexual orientation a right that must be protected.

3. 3. 0. 4. The Potential Impacts of Speech

For those restrictions to be legitimate however, they must also be justified on the basis of potential impact. The criteria for evaluating the impact of hate speech can be summarized in the following:

- a. a threat to national security, territorial integrity or public order,
- b. disorder or crime,
- c. a threat to public health or morals,
- d. violation of the reputation or rights of others,
- e. the disclosure of information received in confidence
- f. a threat to the authority and impartiality of the judiciary.

Therefore, the extent of the influence of those expressions should be taking into consideration to classify an expression as prohibited expression.

3. 3. 1. Theories on the Definition of Hate Speech

Despite the frequency of hate speech in recent years, there is no universally accepted definition of it.²⁶⁵ Thus, to get a broader familiarity with the concept of hate speech, here are some of the conclusions of experts and many of the proposals that will be reviewed in this regard.

Black's Law Dictionary defines hate speech as "speech that carries no meaning other than the expression of hatred for some group, such as a particular race, especially in circumstances where the communication is likely to provoke violence."²⁶⁶

According to the EU-wide Study and National Assessments on Hate Speech, "hate speech" constitutes denigration of the reputation of a social group, stereotyped by some particular national, racial or religious characteristics, accompanied by incitement to hostility, violence and discrimination against that group."²⁶⁷

²⁶⁵ Elena Mihajlova, Freedom of expression and hate speech, p. 25, Polyesterday, Skopje (2013)

²⁶⁶ Black's Law Dictionary, 1407-08 (7th ed. 1999)

²⁶⁷ Hate Crime and Hate Speech in Europe: Comprehensive Analysis of International Law Principles, EU-wide Study and National Assessments, p. 11, via: <http://sosracismo.eu/wp-content/uploads/2016/07/Hate-Crime-and-Hate-Speech-in-Europe.-Comprehensive-Analysis-of-International-Law-Principles-EU-wide-Study-and-National-Assessments.pdf> (Last access February 1, 2017)

Paul Macmasters, the author of the book of ‘Must a Civil Society be a Censored Society?’ sees hate speech as “that which offends, threatens, or insults groups based on race, color, religion, national origin, gender, sexual orientation, disability, or a number of other traits.”²⁶⁸

Susan Benesch, Consultant to the UN Special Advisor on the Prevention of Genocide, described hate speech as: “speech that attacks or disparages a group or a person, for characteristics purportedly typical of the group”²⁶⁹

From the European perspective, hate speech is: “understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance.” It is perceived as ‘all kinds of speech that disseminate, incite or justify national and racial intolerance, xenophobia, anti-Semitism, religious and other forms of hatred based on intolerance’²⁷⁰

It is clear that the European convention for Human Rights “does indeed clarify that the freedom of expression is applicable to both inoffensive ideas or those that are favorably received, but also ideas that offend, shock or disturb, so long as such ideas do not perpetuate discrimination or otherwise are justifiable as pressing social needs in terms of the limitations set out in Article 19[3] of the ICCPR.”²⁷¹

Based on the five standards of hate speech stipulated by international and regional instruments, and after presenting some theories on the definition of hate speech as above, it is clear that there is a noticeable agreement from interested parties on three elements, which are the form of speech, the content of speech and the type of promoter of speech. However, there is broad disagreement in the other two components, which are the context of speech and the implications

²⁶⁸ Paul Macmasters, ‘Must a Civil Society be a Censored Society?’. Human Rights, American Bar Association, 1999, Vol. 4, No. 26.

²⁶⁹ Susan Benesch, ‘Contribution to OHCHR Initiative on Incitement to National, Racial, or Religious Hatred’, paper made available at the UN OHCHR 2011 Expert workshop on the prohibition of incitement to national, racial or religious hatred, Vienna, February 2011, via: <http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Others2011/SBenesch.doc> (last accessed March 15 2017)

²⁷⁰ Recommendation No. R (97) 20 on ‘hate speech’, adopted by the Committee of Ministers of the Council of Europe in 1997.

²⁷¹ Lawrence M. Mute, Legislation, hate speech, and freedom of expression in Kenya (2008-10-22, Issue 403) via: <http://pambazuka.org/en/category/comment/51378> (last access July 15, 2016)

of speech.²⁷² This dispute has contributed to the ambiguity of the definition of hate speech. The following section will consist of an in-depth discussion of these two elements, which must be resolved in order to reach a precise definition. In the next chapter, these two elements will be explored from the Islamic perspective.

3. 3. 2. The Actual Elements of Hate Speech/

The most important conditions for restrictions on freedom of expression by International and regional instruments, as mentioned previously, are as follows:

- a. The restrictions must be provided by law. In the absence of this condition, the following two conditions of restrictions will apply.
- b. They must be necessary to protect other's freedoms and in the least restrictive way possible.
- c. They must be provided for a legitimate purpose, such as for protection of national security, public order, public health or morals, or respect for the rights and reputations of others.

In addition to these conditions, international human rights law has developed two elements to determine whether speech lies within freedom of expression or hate speech, which are (a). the context that determines the intention of the promoter of the expression, and (b). a direct connection between the expression and its effects.²⁷³

3. 3. 2. 0. The Context that Determines the Intention of the Promoter of Expression

The international law articles above refer to "advocacy of hatred"; it is clear that international law focuses on the element of intent. The word "advocacy" refers to the determined and deliberate dissemination of hate speech. For example, in the case of *Faurisson v. France*, the committee considered that denial of the Holocaust by an author was a legitimate aim to restrict his

²⁷² Mendel, T. (2012) 'Does International Law Provide for Consistent Rules on Hate Speech?', in Herz, M. and Molnar, P. (eds.) *The Content and Context of Hate Speech: Rethinking Regulation and Responses*. Cambridge: Cambridge University Press, p. 417- 429

²⁷³ Buyse, A. (2014), *Dangerous Expressions: The Echr, Violence and Free Speech*, *International and Comparative Law Quarterly*, (2014), p. 501-502

freedom of expression.²⁷⁴ The committee stated that "the law itself under which the author was convicted was problematic since it did not "link liability to the intent of the author, nor to the tendency of the publication to incite to anti-Semitism."²⁷⁵

Also, the UN Special Rapporteurs on freedom of religion or belief, have noted that a 2008 Office of the High Commissioner for Human Rights seminar concluded that "[t]he public intent of inciting discrimination, hostility or violence must be present for hate speech to be penalized."²⁷⁶ The Special Rapporteurs also observed that the Camden Principles on Freedom of Expression and Equality clarify that "the term advocacy is to be understood as 'requiring an intent to promote hatred publicly towards the target group'"²⁷⁷ in order to impose limitations on hate speech compatible with the right to freedom of expression. In the case of *J. R. T. and W. G. Party v. Canada*, the Human Rights Committee concluded that "the opinions which Mr. T. seeks to disseminate through the telephone system clearly constitute the advocacy of racial or religious hatred which Canada has an obligation under article 20 (2) of the Covenant to prohibit."²⁷⁸ Thus, States should guarantee that the local legal framework regarding incitement rulings must be in accordance with article (20) of the International Covenant in prohibiting "Any call for hatred."²⁷⁹

The fundamental element that the European Court consistently seeks to determine is whether the promoter of expression intended one of the prohibited contexts of hate speech, such as: incitement, hostility, violence, or any form of hatred through the use of "hate speech" or

²⁷⁴ Communication No. 550/1993 (1996), individual opinion of Elizabeth Evatt and David Kretzmer, co-signed by Eckart Klein, para. 9; via: <http://www1.umn.edu/humanrts/undocs/html/VWS55058.htm> (Last access July 15, 2016)

²⁷⁵ Ibid, Opinion of Rajsoomer Lallah, at para. 6.

²⁷⁶ Joint Submission by Mr. Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief; Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Mr. Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, OHCHR expert workshops on the prohibition of incitement to national, racial or religious hatred. Expert workshop on Europe (9-10 February 2011, Vienna), page 11. via:

http://www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/CRP3Joint_SRSubmission_for_Vienna.pdf (Last access July 15, 2016)

²⁷⁷ Id. at page 12.

²⁷⁸ *J. R. T. and the W. G. Party v. Canada*, Communication No. 104/1981, U.N. Doc. CCPR/C/OP/2 at 25 (1984), para. 8.

²⁷⁹ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

whether he was only presenting a social phenomenon or a matter of public interest.²⁸⁰ If a speech did not come in the form of racism or incitement, the intention of the promoter is not classified as an intent of hatred.²⁸¹ In the case of *Jersild v. Denmark*, the European Court considered racist intention as a fundamental element in determining the expression was classified as hate speech or not. Thus, the Court deemed "the feature could not objectively have appeared to have as its purpose the propagation of racist views and ideas".²⁸²

The European Commission against Racism and Intolerance (ECRI) has held that the law should penalize the following acts when they come in the prohibited contexts that determine the intention of the promoter of expression.

"The law should penalise the following acts when committed intentionally:

- a) public incitement to violence, hatred or discrimination,
- b) public insults and defamation or
- c) threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin;
- d) the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin"²⁸³

3. 3. 2. 1. Direct Connection Between the Expression and Effects

The international or regional instruments, including articles 19 and 20 of the ICCPR, and article 20 of ECHR stipulate that speech is criminalized when it is the cause of the violation of the rights of others or the cause of damage to public interests. Potential impact also "covers all socially detrimental consequences caused by such expression, may it be only hatred against others, even

²⁸⁰ Anne Weber, *Manual on hate speech*, p. 33, Council of Europe Publishing (2009)

²⁸¹ Elena Mihajlova, *Freedom of expression and hate speech*, p. 26, Polyesterday, Skopje (2013)

²⁸² *Jersild v. Denmark* [GC], judgment of 23 September 1994, Series A No. 298, para. 33. See, also, *Lehideux and Isorni v. France* [GC], judgment of 23 September 1998, Reports of Judgments and Decisions 1998-VII, para. 47, and 53

²⁸³ European Commission against Racism and Intolerance (ECRI) ECRI general policy recommendation No. 7 on national legislation to combat racism and racial discrimination, adopted on 13 December 2002, part IV (Criminal law), point 18 (a) to (d).

though the actual acts of causing more severe consequences are lacking."²⁸⁴ In order to prevent unnecessary restriction of the freedom of expression, international law obliges countries to prove that there is a direct connection between expression and a threat to the rights of others. Article 7 of the ICERD directs that

"States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups."²⁸⁵

Hence, the words " with a view to combating prejudices which lead to.." in this article, and "advocacy to hatred that constitutes incitement to discrimination, hostility or violence" in article 20 of the ICCPR emphasize the necessity of there being a direct connection between the expression and its effects. However, the extent of the effects is not clearly delineated. Must incitement lead to a crime to be classified as hate speech or is incitement alone sufficient to prove that? It is clear that this element remains complex and may lead to abuse of international norms to restrict legitimate speech.²⁸⁶ The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred considered that mere incitement "is an inchoate crime. The action advocated through incitement speech does not have to be committed for that speech to amount to crime. Nevertheless, some degree of risk of resulting harm must be identified. It means the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognising that such causation should be rather direct."²⁸⁷

3. 4. Freedom of Expression and Hate Speech Under the National Laws of Selected Islamic States

3. 4. 0. Introduction

This section reviews the position of Islamic states in the current era on the concept of hate speech through an inspection of their national legislation. The discussion focuses on specific states, which

²⁸⁴ Elena Mihajlova, Freedom of expression and hate speech, p. 26, Polyesterday, Skopje (2013)

²⁸⁵ International Covenant on the Elimination of All Forms of Racial Discrimination, Article 7.

²⁸⁶ UNESCO Series On Internet Freedom, Countering Online Hate Speech, p. 20-21, the United Nations Educational, Scientific and Cultural Organization 7, place de Fontenoy, 75352 Paris 07 SP, France (2015)

²⁸⁷ Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

are Saudi Arabia, Egypt, Lebanon, Iran, and the United Arab Emirates, because they have played an important role in most conflicts and events in the Middle East. This section aims to explore whether or not these states provide a dividing line between freedom of expression and hate speech through which it is possible to conclude a precise definition of hate speech. Also, it seeks to reveal whether these legislations provide a viable legal ground to limit hate speech.

3. 4. 1. Saudi Arabia

3. 4. 1. 0. Introduction

Saudi Arabia plays a significant role in all issues of the Islamic World. It has a great influence on the vast majority of Sunnis. Saudi Arabia has suffered over the past 40 years from conflict ignited by the extreme discourse of the Salafi, Assahwa, and Political Reform movements. That is why the legislators of Saudi Arabia started to attempt to stop such speech. In fact, Saudi legislators have not given a clear and direct definition of hate speech, but they have used more words and descriptions that depict the types of hate speech. To determine whether Saudi legislation has drawn sufficient boundaries between free speech and hate speech, it is appropriate to review articles related to this issue.

3. 4. 1. 1. Basic Law of Governance

Article (39) in the Basic Law of Governance in Saudi Arabia states that:

"Mass and publishing media and all means of expression shall use decent language and adhere to State laws. They shall contribute towards educating the nation and supporting its unity. Whatever leads to sedition and division, or undermines the security of the State or its public relations, or is injurious to the honor and rights of man, shall be prohibited. Laws shall set forth provisions to achieve this."²⁸⁸

This article stipulates certain conditions for restrictions on freedom of speech; it is prohibited to utter words that lead to sedition and division, offend human rights, or violate national security. Thus, this agrees perfectly with the conditions and regulations of restrictions on freedom of speech under international law. Actually, this article is one of the efforts made by Saudi Arabia to stop

²⁸⁸ Basic Law of Governance, Date of issuance: 3 March 1992, Date of Publication: 6 March 1992, Article 39, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, via: <https://www.boe.gov.sa/ViewSystemDetails.aspx?lang=en&SystemID=4&VersionID=240> (Last access 3 August 2016)

hate rhetoric and any attempt to abuse others. In the same way, article (12) in the basic Law of Governance in Saudi Arabia emphasizes that “Promoting national unity is a duty, and the State shall prevent whatever leads to disunity, sedition and division.”²⁸⁹

This article considers that any speech that leads to division must be prohibited. It completely rejects any speech that evokes any type of hatred. It is worth notice that both articles have not used the term "hate speech," but some terms were used such as disunity, sedition, and division injurious to the honor and rights of man, which are included in the contents considered as hate speech.

3. 4. 1. 2. Other Laws

It is hard to determine the scope of freedom of opinion and expression in Saudi legislation without considering the laws concerning publications and cyber crime. Article 8 of the Law of Printed Materials and Publication states that: "Freedom of expression is guaranteed in the different media of publication within the limits of Sharia Rules and Law."²⁹⁰ Since Saudi Arabia fully applies Islamic law according to article 1 of the Basic Law of the Saudi Government, freedom of expression is guaranteed, but in accordance with Sharia provisions and principles. The position of Saudi legislation on freedom of expression will be made evident in the upcoming chapters.

Despite the ambiguity of Saudi legislation on the scope of freedom of expression, the Publication Law gives certain conditions that aim to prevent any context of hate expressions. Article (9) states;

“For approval, the printed material shall observe the following:

- 1- Not be in violation of the provisions of Shari’ah.
- 2- Not lead to jeopardizing the country’s security or its public order or serve foreign interests in conflict with national interest.
- 3- Not lead to inciting feuds and spreading dissension among citizens.
- 4- Not lead to encroachment on people’s dignity and freedom or to their extortion or defaming them or their trade names.
- 5- Not lead to encouraging crime or its incitement.
- 6- Not be detrimental to the country’s economic or health status.

²⁸⁹ Basic Law of Saudi Governance, Article 12

²⁹⁰ Law of Printed Materials and Publication, Date of issuance: 29 November 2000, Article 9, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, via: <https://www.boe.gov.sa/ViewSystemDetails.aspx?lang=en&SystemID=14&VersionID=22> (Last access 3 August 2016)

7- Not disclose facts of investigations or trials, unless permitted by the competent authority.

Be committed to objective and constructive criticism leading to public good, based upon true facts and evidence.”²⁹¹

It is clear that all these conditions come in the context of protection of the interests of public security, public life, and the rights of others. It is worth mentioning that this article clarified the permitted range of criticism through the next four conditions: 1. criticism must be objective; 2. constructive ; 3. in the public interest; and 4. based on facts and evidence. It is difficult to determine what is constructive or destructive criticism. Also, differentiating between criticism which falls within the framework of public interest, and criticism which raises sedition and hostility, will be a difficult task.²⁹²

This article did not give a definition for "hate speech," but it provided some elements and descriptions for hate speech. This article forbids any publication that foments division and hate.

Article (9) of the Anti-Cyber Crime Law indicates that the form of hate speech is not confined to the form of direct speech, but includes all acts that constitute incitement to commit any of the cyber-crimes, including supporting, assisting or collaborating with others.²⁹³ Moreover, it considers, in the case of crime committed as a result of said incitement, assistance or collaboration, the promoter of incitement must be subject to a punishment not exceeding the maximum punishment.²⁹⁴

In brief, despite the fact that the term "hate speech" is not explicitly used by the Saudi legislation mentioned above, it points to some contexts, forms, and results of hate speech such as incitement, division, violation of human rights, and insult to human dignity.

²⁹¹ Law of Printed Materials and Publication, Article 9

²⁹² Dr. Matt J. Duffy, Media laws and regulations of the GCC countries, p. 36, Doha Centre for Media Freedom.

²⁹³ Anti- Cyber Crime Law, Date of issuance: 26 March 2007, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, Article 9 states that:

“A person who incites, assists or collaborates with others to commit any of the crimes stipulated in this Law shall be subject to a punishment not exceeding the maximum punishment designated for such crimes, if the crime is committed as a result of said incitement, assistance or collaboration, and he shall be subject to a punishment not exceeding half the maximum punishment designated, if the intended crime is not committed.”, via:

http://www.citc.gov.sa/en/RulesandSystems/CITCSysstem/Documents/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf (Last access 3 August 2016)

²⁹⁴ Ibid.

3. 4. 2. Egypt

3. 4. 2. 0. Introduction

Egypt was widely affected by the Arab Spring; millions of Egyptians protested peacefully in response to the speeches of the followers of various political and religious movements through social media especially Facebook and Twitter. After the departure of ex-president Hosni Mubarak in 2013, Egypt witnessed the rise of a number of opposing movements, which tended to use hate speech to achieve their political purposes. Moreover, the Egyptian print media witnessed a state of division based on religious, geographic, and political elements. The rhetoric of the political and religious Egyptian parties was prominently featured with its violent attitude and its unwholesome accusations of others. Upon Mubarak's stepping down, hate speeches on religious TV channels incited terror and killing to the extent that the Muslim Brotherhood Group besieged Media Production City twice to terrorize the media personnel there. As a result, Egyptian discourse lacked objectivity and credibility. In fact, Egypt is the most affected by hate speech among all Arab Spring countries. This section will give a brief account of Egyptian legislation regarding hate speech.

3. 4. 2. 1. The Egyptian Constitution

The Egyptian Constitution does not define "hate speech" as a concept, but it tackles some relevant issues as discrimination, justice, race, color, language, political affiliation, sectarian basis, violation of rights, freedom to perform all religious observances, and the free formation and functioning of political parties. Determination of whether the rules of the Egyptian Constitution provide a suitable ground to define the concept of hate speech, depends on studying the interaction between freedoms and limitations on these freedoms.

In consideration of the rights guaranteed by the Egyptian constitution, Article (53) of the Egyptian constitution of 2014 guarantees Egyptians' rights to enjoy a decent life without discrimination on any basis, either religion, origin, social status, language or color.²⁹⁵ The constitution also states that "Freedom of thought and opinion is guaranteed. All individuals have the right to express their opinion through speech, writing, imagery, or any other means of

²⁹⁵ Egypt's Constitution of 2014, Article.53 that states:

"Citizens are equal before the law, possess equal rights and public duties"

Translated by International IDEA, via: https://www.constituteproject.org/constitution/Egypt_2014.pdf
(Last access 3 August 2016)

expression and publication.”²⁹⁶ Moreover, the constitution guarantees the right of belief, and considers that: “the freedom of practicing religious rituals and establishing places of worship for the followers of revealed religions is a right organized by law.”²⁹⁷ Furthermore, the Egyptian constitution guaranteed the freedom of the press, publication, and printing²⁹⁸, and stipulates that Egyptians have the right to form political parties.²⁹⁹ It is clear that the constitution included provisions addressing the rights to freedom of expression and religion.³⁰⁰

On the other hand, the Egyptian constitution puts some limitations on these freedoms, including freedom of expression. Any discrimination is prohibited by the constitution. Article (53) of the Egyptian constitution states that people:

“.. may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination.”³⁰¹

Also, the Egyptian Constitution rejects any political activity based on religion, gender, race, or ethnicity. Article (74) states that

“No political activity may be exercised or political parties formed on the basis of religion, or discrimination based on sex, origin, sect or geographic location, nor may any activity be practiced that is hostile to democracy, secretive, or which possesses a military or quasi-military nature.”³⁰²

Here, freedom of expression under the Egyptian constitution is a positive right that cannot be denied by the government. This constitutional right enables the citizens to express themselves freely on various aspects such as in the freedom of thoughts, beliefs, or political parties. But the importance of these freedoms, especially freedom of speech does not make these freedoms an absolute right. With regard to freedom of speech in the Egyptian constitution, although the right is a positive right as it is in most states around the world, there are certain limitations imposed. These

²⁹⁶ Egypt's Constitution of 2014, Article.65.

²⁹⁷ Egypt's Constitution of 2014, Article.64.

²⁹⁸ Egypt's Constitution of 2014, Article.70 states that: “Freedom of press and printing, along with paper, visual, audio and digital distribution is guaranteed,”

²⁹⁹ Egypt's Constitution of 2014, Article.74 states that “Citizens have the right to form political parties by notification as regulated by the law.”

³⁰⁰ A Freedom House Special Report, Policing Belief: The Impact of Blasphemy Laws on Human Rights, p. 23.

³⁰¹ Egypt's Constitution of 2014, Article.53

³⁰² Egypt's Constitution of 2014, Article.74

limitations, in general, are embodied in the prohibition of all forms of discrimination and incitement to hate. But the constitution does not specify the extent at which damage to others becomes unacceptable, or whether incitement speech is considered an independent crime, or a crime that depends on the existence of actual damage to others. In fact, without direct references specifically to hate speech and clarification of its contents, contexts, forms, and potential implications, the inherent conflict between freedom of speech and limitations imposed to protect the rights of others will remain controversial during the legal application. This conflict may also grant the government opportunity to expand in the exploitation of these restrictions to suppress political opposition and peaceful dissent.

3. 4. 2. 2. Other Laws

Egypt has always had a myriad of laws related to restrictions imposed on the freedom of speech. To know whether these laws are able to provide a legislative basis to derive a comprehensive definition of the concept of hate speech, the study will examine the restrictions on free expression in Egypt through relevant laws. One of the reasons permitted for restrictions to freedom of expression under international law is the protection of national security. For this reason, Article (80c) of the Egyptian penal code emphasizes that any type of expression including “false or tendentious news, information or rumors; or willfully propagates a provocative publicity”³⁰³, must be punished by law based on the fact that these expressions lead to harm and damage to national security. The protection of public order is another reason for restrictions to freedom of expression under the Egyptian penal code that is in accordance with international law. Article (98a) of Egyptian penal code states that the penalty

"shall be inflicted on whoever advocates in any way for running counter the basic principles on which stands the socialist system in the State, or incites to hating or disdaining these principles, advocates the call against the alliance of the people's working forces, or prompts for resisting the public authorities, and also whoever obtains personally or by an

³⁰³ Law No. 58 01 The year 1937 Promulgation The Penal Code, Criminal Code of Egypt as of 1992 (English version), Article 80 c that states:

“Imprisonment shall be the penalty imposed on whoever deliberately discloses in time of war, false or tendentious news, information or rumors, or willfully propagates a provocative publicity, which is all liable to attain harm and damage to the military preparations for the country's defense, or to the armed forces' military operations, create panic among the people, or weaken the nation's toleration and endurance.”

via: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/57560/111585/F1337119832/EGY57560.pdf>
(Last access 3 August 2016)

intermediary or possesses printed matter, and correspondence, comprising an advocacy or recommendation of something of the sort, if they are prepared and provided for distribution or for access by a third party, and also whoever obtains or possesses any means of printing, registration, or publicity, which is appropriated, even temporarily, for printing, recording, or diffusing, anything of the foregoing.”³⁰⁴

Moreover, Egyptian penal code stresses that rights of others, in addition to national unity or social peace, must be protected against any forms of hate speech, including use of religion in advocating to hatred. Article (98f) states that the penalty shall be "inflicted on whoever exploits and uses the religion in advocating and propagating by talk or in writing, or by any other method, extremist thoughts with the aim of instigating sedition and division or disdaining and *contempting* any of the heavenly religions or the sects belonging thereto, or prejudicing national unity or social peace.”³⁰⁵

Egypt's press law does not use the term "hate speech," but it rejects any inflammatory and aggressive speech. This complies with the Egyptian constitution's articles and the penal code. Article (20) stipulates that,

"Journalists shall refrain from publishing news that is contemptuous or disrespectful to caste, creed, nationality, and religion of any individual or the community or the country. For the sake of upholding national unity, communal prejudices and feelings of hatred and malice shall be discouraged. Journalists shall refrain from showing partiality in favour for, or against, members of a caste, creed, nationality, or religion. Moreover, journalists shall not use racial characteristics to instigate hatred or promote intolerance and bigotry against certain segments in the Society.”³⁰⁶

As noticed, the word "hatred" is used to describe the prohibited types of rhetoric.

The Egyptian Journalists Honor Charter is in agreement with the law related to the regulation of the press in Egypt. This Charter calls on journalists to "refrain from disseminating racist messages, expressing contempt for or advocating hatred of religions, denigrating the beliefs of others, or promoting discrimination or contempt for a particular community.”³⁰⁷

³⁰⁴ Criminal Code of Egypt, Article 98a.

³⁰⁵ Criminal Code of Egypt, Article 98f.

³⁰⁶ Law No 96 of Year 1996: Concerning the Regulation and Organization of Journalism and Press Functions, Article 20, via: http://www.law-democracy.org/wp-content/uploads/2010/07/Law.Press-Law_No_96_1996.pdf (Last access 3 August 2016)

³⁰⁷ National Coalition for Media Freedoms, The Egyptian Journalists Honor Charter 1998, the Supreme Press Council approved to issue it in 03/26/1998, via: <http://ncmf.info/?p=151> (Last access 3 August 2016)

Hence, although there is no direct reference to hate speech, all of these articles address certain standards of hate speech. First, these articles indicate that the form of expression includes, in addition to direct speech, all acts that constitute incitement to discrimination, hostility or violence, such as: promoting, supporting, publishing, distributing, recording, recommending of acts of hatred, or “false or tendentious news, information or rumors, or propagates a provocative publicity”³⁰⁸. Second, the content of expression is also addressed. For the expression to be classified as prohibited expression according to article (53) of the Egyptian constitution of 2014³⁰⁹, it has to violate a person’s rights through abuse against them in one of the following areas: “religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation”³¹⁰. Third, the articles emphasize that there is no exception relating to the status of the promoter of expression, whether it is an individual or group with an official capacity, or ordinary person or an unofficial group.

Fourth, these articles clearly specify certain contexts that determine the intention of the promoter of the extremist expression as follow:

- a. “advocacy for war”,
- b. “instigating sedition and division”,
- c. “disdaining the heavenly religions or the sects belonging thereto”,
- e. discrimination in any form, including those of race, color, religion, language, or national origin, or
- f. use of “racial characteristics to instigate hatred or promote intolerance and bigotry against certain segments in the Society”.

The Egyptian legislation refers to "advocating to hatred", "inciting to hating" "advocating hatred of religions" and "with the aim of instigating"; it is clear that the Egyptian law focuses on the

³⁰⁸ Law No. 58 01 The year 1937 Promulgation The Penal Code, Criminal Code of Egypt as of 1992 (English version), Article 80 c

³⁰⁹ Egypt's Constitution of 2014, Article.53 that states:

" Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination."

³¹⁰ Ibid

element of intent. The word "advocacy" in this context refers to the determined and deliberate dissemination of hate speech.

Fifth, even if the expression meets those conditions, for restrictions to be legitimate, they must be justified on the basis of the potential impact which can be summarized in the following:

- a. A threat to national unity or security, social peace or public order,
- b. A threat to the heavenly religions or the sects belonging thereto, and
- c. Violation of the reputation or rights of others.

These articles emphasize the necessity of having a direct connection between the expression and its effects. However, the extent of the effects is not easy to determine. For example, it is difficult to determine the extent of the effect of hate speech to create a threat to the “heavenly religions or the sects belonging thereto”³¹¹. This uncertainty could cause the government to abuse the legitimate expression through unjustified expansion of restrictions to suppress political opposition and peaceful dissent. The practice of hate speech can be criminally punished on vague standards of potential impacts, such as “promoting extremist ideologies, spreading false news, harming the integrity of the country, or disturbing public order”.³¹² The Mubarak government used repressive tactics, facilitated by Emergency Law, to silence any opinion or criticism of any political opposition and peaceful dissent.³¹³

3. 4. 3. Lebanon

3. 4. 3. 0. Introduction

Hezbollah's speeches have influenced the politics of Lebanon directly and have also had indirect impacts on the political events of other countries in the region, such as Bahrain, Kuwait, and Saudi Arabia. The party leader, Hasan Nasrallah, frequently spoke about the affairs of the Arab and Islamic World always marginalizing non-Shiite Lebanese citizens by declaring that Lebanon will fall under the control of the Iranian revolution. Along with these repercussions,

³¹¹ Criminal Code of Egypt, Article 98f

³¹² Abdalla Hassan, *Changing News, Changing Realities: Media Censorship's Evolution in Egypt*, (2013).

³¹³ The Road Ahead: A Human Rights Agenda for Egypt's New Parliament, Human Rights Watch, JANUARY 16, 2012, via: <https://www.hrw.org/report/2012/01/16/road-ahead/human-rights-agenda-egypts-new-parliament> (February 5, 2017). This HRW report lists several cases of violations of freedoms of expression and press.

Lebanese discourse witnessed a state of unprecedented division and conflict, especially after the intervention of Hezbollah in Syria, Bahrain, Kuwait, and Saudi Arabia.³¹⁴ This conflict escalated with hate speech directed against specific political leaders.

Taking into consideration the aforementioned forms of hate speech, the next section will discuss the dividing line between freedom of expression and hate speech in the legislation of Lebanon.

3. 4. 3. 1. The Lebanese Constitution

The Lebanese Constitution is based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination. It states in its preamble: "The abolition of political confessionalism shall be a basic national goal and shall be achieved according to a staged plan."

³¹⁵ The same preamble also stated:

"Lebanese territory is one for all Lebanese. Every Lebanese shall have the right to live in any part thereof and to enjoy the rule of law wherever he resides. There shall be no segregation of the people on the basis of any type of belonging, and no fragmentation, partition, or settlement of non-Lebanese in Lebanon."³¹⁶

These provisions ensure equality of rights and duties among all citizens without discrimination. In essence, this is a rejection of any rhetoric that is intended to incite discrimination or hostility on the basis of religious or political background. Besides, the Lebanese Constitution also guarantees expressly freedom of expression, as stipulated in article (13): "The freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by law."³¹⁷ This article protects both spoken, and written forms of expression. Also, it protects the right to access, receive and share information and ideas through protection of the freedom of the press. However,, freedom of expression is not quite absolute, but is subject to the provisions of Lebanese laws. Thus, the

³¹⁴ Ward Byers, *Religiosity, Freedom of Expression and Lebanon and Morocco*, p. 22, ProQuest LLC (2014)

³¹⁵ The Lebanese Constitution, Promulgated May 23, 1962 with its Amendments (1995), Preamble, via: <http://www.presidency.gov.lb/English/LebaneseSystem/Documents/Lebanese%20Constitution.pdf> (Last access 3 August 2016)

³¹⁶ Ibid

³¹⁷ The Lebanese Constitution, Promulgated May 23, 1962 with its Amendments (1995), Article 13

Lebanese Constitution never uses the term "hate speech"; it is not included in any article, but it forbids all forms of discrimination.

3. 4. 3. 2. Other Laws

It is appropriate to review other Lebanese laws to know whether these restrictions on freedom of expression in other Lebanese laws will provide a demarcation line between freedom of expression and hate speech. Article (317) of the criminal code criminalizes "acts or writings intended to incite sectarian or racial strife, or provoke conflict among sects."³¹⁸ This article refers to "the context of speech" that determines the intention of the promoter of speech. It is clear that Lebanese law is compatible with international law in the adoption of the element of "intent" to classify the expression as prohibited.

Article (474) of the criminal code criminalizes anyone who "ridicules religious rituals that are practiced openly or anyone who induces contempt of one of those rites."³¹⁹ This article refers to one of the contents of hate speech through violation in the area of religion. In addition, it also mentions the context of ridiculing and incitement that determine the intention of the promoter of hate speech. Thus, these articles of the criminal code criminalize several forms of hate rhetoric such as, ridiculing, provoking sectarian strife, or discriminating on the basis of ethnicity or religion. However, the penal code did not address or define the term "hate speech" directly and clearly.

The Lebanese Publications Law does not use the term "hate speech" in any its provisions, but it criminalizes incitement, threatening, or defaming the other. This law punishes any person who "threatens people through publications or advertisements, or publishes pictures to bring an illegal benefit, or attempts to do so" ³²⁰ Also, the law criminalizes libel through publication³²¹,

³¹⁸ The Lebanese criminal Code, Promulgated March 1 1943, Article 317, via: <http://www.madcour.com/LawsDocuments/LDOC-1-634454580357137050.pdf> (Last access 3 August 2016)

³¹⁹ The Lebanese criminal Code, Promulgated March 1 1943, Article 474

³²⁰ Lebanese Publications Law (Law No. 121 in 1983), Article 16, Ministry of Media, via: <http://www.ministryinfo.gov.lb/main/MediaLaws/ActNo.382.aspx> (Last access 3 August 2016)

³²¹ Lebanese Publications Law (Law No. 121 in 1983), Article 20 states that: "Anyone who commits libel through publication will be sentenced to 3 months to 1 year of imprisonment."

slander³²² , and "any piece of writing that calls for a crime to be committed is regarded as incitement."³²³ In addition, this law considers that publication is a crime punishable by law "if any publication denigrates any religion recognized by the country, disturbs the public peace, or endangers the safety of state sovereignty."³²⁴ Regardless the fact that the Publication Act did not address hate speech directly, it clearly criminalizes any kind of hostile rhetoric by using terms such as incitement, sectarianism, racism etc. Therefore, Lebanese Publication Law considers all radical and aggressive discourse a crime punishable by law.

Also, Lebanese Media Charter calls for discarding all forms of discrimination or sectarianism. Article (2) of Honor Media Charter declares: "It shall also guarantee that the personal status and religious interests of the population, to whatever religious sect they belong, shall be respected."³²⁵ In addition, article (13) of Honor media Charter encourages "being keen to avoid mistakes or use vocabulary of libel, slander, or defamation."³²⁶ Through the previous articles of Publications Law and of Honor media Charter, it is clear that "hate speech" was not defined as a term, but this charter prohibits all items and forms of hostile rhetoric. As a result, Lebanon has an appropriate ground for combating and criminalizing hate speech even though Lebanese legislation does not use the term "hate speech".

3. 4. 4. Iran

3. 4. 4. 0. Introduction

Since the Iranian revolution in 1979, revolutionary rhetoric has been prominent and it has appeared in the form of religious and political speeches. Considering that Iran exports revolution to the whole world, Iranian speeches generally regard that anyone who refuses to accept its revolution is an enemy. In the previous chapter, many forms of hostile acts were presented. We can find that the media that supports the Iranian policy often adopts violent ways to express their points of view and to direct accusations towards political or religious figures. Media also becomes

³²² Lebanese Publications Law (Law No. 121 in 1983), Article 21 states that: "Anyone who commits slander will be sentenced to 1 to 6 months of imprisonment."

³²³ Lebanese Publications Law (Law No. 121 in 1983), Article 24

³²⁴ Lebanese Publications Law (Law No. 121 in 1983), Article 25

³²⁵ Honor media Charter of websites, Article 2, National News Agency - Lebanese Ministry Media, via: <http://nna-leb.gov.lb/ar/show-news/204408/nna-leb.gov.lb/ar> (Last access 3 August 2016)

³²⁶ Honor media Charter of websites, Article 13

a tool to spread rumors in the Sunni community. Iran has started to include the religious aspect in its aggressive rhetoric through producing religious programs. As a result, the Iranian media has lost its objectivity and authenticity.

Since the Iranian revolution in 1979, political and religious discourse still prevail in Iran. Iran, from the perspective of the international community, is considered the official leader for Shiite doctrine. In the Arab Spring, Iran played a major role in establishing the concept of Iranian revolution among Arab youth. Also, its discourse was an influential factor in consolidating hatred and hostility against Sunni doctrine in Syria and Iraq, which resulted in bloody and inhuman massacres.

In keeping with previous analyses of legislation in other countries, this section will analyze Iranian legislation, including the Iranian Constitution and Penal Code to grasp the concept of hate speech accurately. This review is aimed at determining a dividing line between freedom of expression and restriction of hate speech from the perspective of Iranian law. The following is a review of the Iranian legislation:

3. 4. 4. 1. The Iranian Constitution

It is worth noting at the outset that the Iranian Constitution guarantees equality among citizens.³²⁷ Article 20 states that: “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.”³²⁸ Freedom of expression is one of human rights mentioned in this article, and therefore, any expression based on any form of discrimination is prohibited. Also, the constitution guarantees freedom of religion through accepting the religious and sectarian pluralism in Iranian society³²⁹, and protecting the rights of the followers of these religions and doctrines as stipulated in articles 12, 13, 14 and 23 of Iran Constitution.

³²⁷ Global Campaign For Free Speech, Memorandum on Media Regulation in the Islamic Republic of Iran, p. 4, London, March 2006, via: https://www.sssup.it/UploadDocs/5962_8_R_Memorandum_on_Media_regulation_in_the_Islamic_Republic_of_Iran_Article19_11.pdf (Last access February 7, 2017)

³²⁸ Islamic Republic of Iran Constitution, Article 20, via: <http://www.iranonline.com/iran/iran-info/government/constitution.html> (Last access 3 August 2016)

³²⁹ Harris, Molly I., Human Rights Legislation in Egypt and Iran: A comparative Historical Analysis, p. 22, Senior Theses, Paper 89.

More clearly, the Iranian constitution guarantees freedom of press and publication subject to their compliance with Islamic principles and protection of the rights of the public.³³⁰ Article (24) states: “Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. The details of this exception will be specified by law.”³³¹

the Iranian constitution restricts rights of individual, so nobody can harm or attack others or the public interest as provided in article (40):

“No one is entitled to exercise his rights in a way injurious to others or detrimental to public interests.”³³²

It is obvious that the Iranian constitution did not use the term hate speech at paragraphs, rather it referred to some of its contexts such as: discrimination, equality, abuse, freedom of religion... etc. These terms are associated with the term "hate speech." By and large, the right to freedom of expression, in the Iranian constitution, must be restricted in cases that lead to harming others, detriment to the public interest or violation of the basic principles of Islam.

3. 4. 4. 2. Other Laws

Article 24 mentioned above states that restriction on freedom of expression will be specified by law. Accordingly, Iran's Penal Code determines certain contents and contexts of hate speech that must be excepted from freedom of expression, as follow:

1. Any expression that aims to insult Islamic values, the prophets, or the Shia Imams, including Imam Khomeini, the founder of the Islamic Republic, and the Supreme Leader.³³³ Article (513) criminalizes everyone who insults Islamic values, the prophets, or the Imams.

“Anyone who insults the sacred values of Islam or any of the Great Prophets or [twelve] Shi’ite Imams or the Holy Fatima, if considered as Saab ul-nabi [as having committed

³³⁰ Human Rights Watch, Iran: Freedom of Expression and Association in the Kurdish Regions, p. 29, United States of America (2009), via: https://www.hrw.org/sites/default/files/reports/iran0109_web.pdf (Last access February 7, 2017)

³³¹ Islamic Republic of Iran Constitution, Article 24

³³² Islamic Republic of Iran Constitution, Article 40

³³³ Amnesty International, Flawed Reforms, Iran's New Code of Criminal Procedure, p. 22, First Edition, London, 2016

actions warranting the hadd punishment for insulting the Prophet], shall be executed; otherwise, they shall be sentenced to one to five years' imprisonment.”³³⁴

In fact, the Islamic Penal Code does not clarify what Islamic sanctities are nor what considers an insult, leaving the door open to the interpretation of the Court.³³⁵

Also, article (514) prohibits insulting the Islamic Republic's founder or the Supreme Leader as stated: “Anyone who, by any means, insults Imam Khomeini, the founder of the Islamic Republic, and/or the Supreme Leader shall be sentenced to six months to two years' imprisonment.”³³⁶

2. Any expression with the intent to cause damage to an individual or a legal person or officials.

3. Any expression with the intent of disrupting the opinion of the authorities or the public.

Article (698) states that:

“Anyone who, with the intent to cause damage to someone or to disrupt the opinion of the authorities or the public by [sending] a letter or complaint or correspondence or petitions or reports or distribution of printed or written papers, whether signed or without a signature, lies or falsely attributes some acts to an individual or a legal person or officials, whether explicitly or implicitly or whether directly or indirectly, and whether or not it causes material or spiritual damages, in addition to restitution of the prestige [of the victim] if possible, shall be sentenced to two months to two years' imprisonment or up to 74 lashes.”³³⁷

This article is more clearly with regard to elements of hate speech. First, the form of expression is not confined to the form of direct speech, but includes any form of expression that cause damage to others. Second, this article refers to "the intent to cause damage"; it is clear that Iran's Penal Code focuses on the element of intent. The word "intent" refers to the determined and deliberate dissemination of hate speech. Third, even if those restrictions are legitimate, they must be justified on the basis of the potential impact of those expressions. This article stipulates that speech is criminalized when it is the cause damage to rights of others whether or not it causes material or

³³⁴ Islamic Penal Code of the Islamic Republic of Iran, Article 513, Iran Human Rights Documentation Center, via: <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3200-islamic-penal-code-of-the-islamic-republic-of-iran-book-one-and-book-two.html> (Last access 3 August 2016)

³³⁵ Amnesty International, *Flawed Reforms, Iran's New Code of Criminal Procedure*, p. 22, First Edition, London, 2016

³³⁶ Islamic Penal Code of the Islamic Republic of Iran, Article 514

³³⁷ Islamic Penal Code of the Islamic Republic of Iran, Article 698

spiritual damages. Potential impacts include material or spiritual damages, and any types of harm, whether explicitly or implicitly or whether directly or indirectly.

4. Any expression with the intent of spreading rumors which cannot be verified, or with the intent of defamation.³³⁸ The penal code prohibits spreading rumors as article (697) states:

“Anyone who, through printed or written papers or by publishing in a newspaper or by giving a speech in events or by any other means, attributes something to a person which is a crime under law and fails to prove that those documents are true, in cases other than those punishable by hadd, shall be sentenced to one month to one year of imprisonment and up to 74 lashes or one of them.”³³⁹

5. Any expression with the intent to satirize an individual.

Article (700) of the penal code stipulates that:

“Anyone who satirizes an individual, whether in poetry or prose and whether verbal or written, or publishes a satire, shall be sentenced to one to six months’ imprisonment”³⁴⁰

The Iranian Penal Code seems to be clearer and wider in tackling various forms of hatred against Islam, its symbols and personalities, especially Shiites. Also, it denies forms of expression that could hurt others or the public interest. Iranian legislation, despite the fact that it does not address the term "hate speech," prohibits words and acts that incite to hatred. Accordingly, Iranian legislation carries somewhat similar attitude as Sunni countries' legislations.

3. 4. 5. The United Arab Emirates

3. 4. 5. 0. Introduction

A thorough studying of the history of political events and struggles over the last thirty years will find that the United Arab Emirates (UAE) is one of the countries less affected by hate speech. However, during the years since the beginning of the Arab Spring, UAE policy has made considerable step toward promoting peace in the Middle East, and it has played a significant role in the region’s issues on the international stage. the UAE government declared crucial positions

³³⁸ Amnesty International, *Flawed Reforms, Iran's New Code of Criminal Procedure*, p. 57, First Edition, London, 2016

³³⁹ Islamic Penal Code of the Islamic Republic of Iran, Article 697

³⁴⁰ Islamic Penal Code of the Islamic Republic of Iran, Article 700

against the Iranian terrorist acts. I condemned the assaults upon the Saudi embassy in Tehran and the Qom consulate at the beginning of 2016, reduced the number of Iranian diplomats in the country, and participated in the Arab coalition military operation against the group "Ansar Allah" in Yemen. It is to be noted that the UAE was the first Islamic system to pass a law that explicitly forbid hate speech. In addition, it gave the first definition of hate speech which was a worthwhile jurial initiative aimed at avoiding its emergence or spreadthroughtout the country while terrorist events are increasing in the region. This reflects the maturity of UAE leadership. Also, this shows its insightful consideration of the future of hate speech in the region and its awareness of the negative impact of fomenting many grievous events. Thus, it is ,appropriate to examine UAE laws relating to freedom of expression and hate speech, including the UAE Constitution, penal code, publications law, and the law on combating discrimination and hatred.

3. 4. 5. 1. The Constitution of the United Arab Emirates

Article (25) of the constitution states that:

“All persons shall be equal before the law. No discrimination shall be practised between citizens of the Union by reason of race, nationality, religious belief or social position.”

This article guarantees equality without distinction between citizens. Thus, it prohibits any saying or act based on any form of discrimination.

The constitution also pledged to protect freedom of expression in article (30) that states:

“Freedom to hold opinions and express them orally, in writing or by other means of expression shall be guaranteed within the limits of the law.”

It is notable that freedom of expression is guaranteed, within the frame of the law. Therefore, this freedom is limited by provisions of the other UAE laws that prevent several forms of hate speech as clarified in the following articles.³⁴¹

Thus, the UAE constitution does not use the term “hate speech” in its provisions. On the other hand, it uses expressions like equality, distinction, and freedom of religion, which indicates the ambiguity of concept of hate speech under the UAE Constitution.

³⁴¹ Dr. Matt J. Duffy, Media laws and regulations of the GCC countries, p. 36, Doha Centre for Media Freedom.

3. 4. 5. 2. Other Laws

The UAE has always had a myriad of laws restricting the right of freedom of speech. To determine whether these laws are able to provide a legislative basis for a comprehensive definition of the concept of hate speech, the study will examine the restrictions on free expression in the UAE through the following laws. The penal code, in articles (180-repeated)³⁴², (182, repeated para 1)³⁴³, (197, repeated, para 2)³⁴⁴, (198)³⁴⁵, (198, repeated)³⁴⁶ and (312)³⁴⁷, addresses the five criteria of hate speech (the form, promoter, content, context, and potential impact), identified by international law .

³⁴² UAE Federal Law no. (3) of the year 1987 a.d. Promulgating the Penal Code (Criminal Law), article (180-repeated) that states:

“a punishment of life imprisonment for a period not exceeding ten years shall be inflicted on any person who promotes by words, writing or any other means any of the acts or purposes stipulated in article 180 of this chapter. The same punishment shall be inflicted on any person who possesses in person or through intermediation any writings, publications or recordings promoting or instigating anything stipulated in the first paragraph if prepared for distribution or to be viewed by others, and on any person who possesses any means of printing, recording or publicity that is used or prepared for use even if temporarily for printing, recording or disseminating anything of whatever is mentioned.” Via:

http://moodle.ais.ae/pluginfile.php/8098/mod_resource/content/1/united%20arab%20emirates%20penal%20code%20and%20amendments%20%282006%29.pdf (last access 3 august 2016)

³⁴³ UAE Federal Law no. (3) of the year 1987 a.d. Promulgating the Penal Code (Criminal Law), article (182, repeated para 1) that states:

“a punishment of imprisonment for a period not exceeding ten years shall be inflicted on any person who exploits religion for promoting by words, writing or any means thoughts liable to provoke sedition or prejudice the national unity or social peace.”

³⁴⁴ UAE Federal Law no. (3) of the year 1987 a.d. Promulgating the Penal Code (Criminal Law), article (197, repeated, para 2) that states:

“a punishment of confinement and a fine shall be inflicted on any person who uses any means of communication or information technology or any other means to publish any information or news, or to instigate the commission of acts liable to endanger the state security or prejudice the public order.”

³⁴⁵ ³⁴⁵ UAE Federal Law no. (3) of the year 1987 a.d. Promulgating the Penal Code (Criminal Law), article (198) that states:

“punishment by imprisonment for a period not exceeding one year and by a fine not exceeding five thousand dirhams, or by either one of these penalties, shall be inflicted upon any one who, by any means of public publicity, abets hatred or contempt of a sect of people if such abetment leads to disturbance of public security.”

³⁴⁶ ³⁴⁶ UAE Federal Law no. (3) of the year 1987 a.d. Promulgating the Penal Code (Criminal Law), article (198, repeated) that states:

“a punishment of confinement shall be inflicted on any person deliberately discloses any false or prejudicial news, information or rumors, or disseminates a provocative propaganda if that is liable to disturb the public security or cause panic among the people or harm the public interest.”

³⁴⁷ UAE Federal Law no. (3) of the Year 1987 A.D. Promulgating the Penal Code (Criminal Law), Article (312) that states:

“Detention and a fine, or one of these two penalties shall be imposed upon any one who commits any of the following crimes:

1. Abuse of any sacred or holy Islamic rites.
2. Blaspheming any of the divine recognized religions.”

First, the UAE Penal code considers that "the form of speech" covers any saying or act calling to hatred. The term "sayings" includes any expression in the form of direct speeches, writings, publications, recordings, or means of public publicity. This concept includes all the procedures and facilities that publicly or secretly support or promote this speech. Second the penal code refers to "anyone" in defining the promoter of speech. It is clear that this code does not differentiate between the ordinary person and the official. Thus, to be considered a promoter of hate speech, issuing of this speech is sufficient without consideration of the position of the issuer or promoter of such speech. Third, the content of the speech refers to the areas covered by the speech. The penal code asserts that an expression is classified as "hate speech" when it violates the others' rights relating to national, racial, or religious origin, race, color, religion, language... etc. Fourth, this code refers to the context of hate speech that determines "the intent" of the promoter of that speech. The Penal code refers to the element of intent in several places with different words, such as instigating, abetting to hatred, and abuse to others, etc... The element of "intent" signifies the determined and deliberate dissemination of hate speech. Fifth and finally, the penal code requires demonstration of a direct connection between the expression and its potential impact. Therefore, the extent of influence of those expressions should be taken into consideration to classify an expression as hate speech. This code mentions certain potential impacts, as follows,

- a. A threat to national security, social peace, or public order,
- b. Violation of the rights of others,
- c. Dissemination of false and harmful rumors
- d. A mere Abuse to sacred, to holy Islamic rites, or to any of the divine recognized religions is a potential impact that is enough to classify as hate speech as mentioned in article (312).

Although these articles do not use the term "hate speech," they widely condemn all of its forms, contents, and other elements. They put terms such as exploiting religion, causing commotion, damaging national unity or social peace, instigating, disrupting public security, and disrespecting one of the Abrahamic religions.³⁴⁸ Consequently, the penal code prohibits any form of hostile speech, and a punishment is attached.

³⁴⁸ Dr. Matt J. Duffy, Media laws and regulations of the GCC countries, p. 37-39, Doha Centre for Media Freedom.

The UAE Publications and Publishing Law does not use the term “hate speech,” as does neither the Constitution nor the penal code. At the same time, this law, as in articles (71)³⁴⁹, (72)³⁵⁰, (73)³⁵¹, (77)³⁵² and (80)³⁵³, entirely criminalizes many forms and contents of hate speech using other terms, such as incitement, abuse, etc. However, overall, these articles used words and expressions whose meanings are parts of “hate speech”; this is the case of all legislation that has been reviewed previously. Nevertheless, the United Arab Emirates is the first regime in the world to issue a particular system of rules related to this speech throughout (Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred)³⁵⁴

This law is distinctive, for it is the first Islamic legislation that defines hate speech. Article (1) states that:

“Hate Speech: Any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups.”³⁵⁵

Explaining the definition

This definition considers that hate speech contains all forms of expression, whether saying or deed. It includes writing, drawing, photography, singing, acting, or gesture as well as supporting provoking or contributing in spreading or justifying the speech. Thus, issuing hate speech, according to the definition, is not limited to traditional speech delivered in a public square. Instead,

³⁴⁹ Federal Law No 15 for 1980 concerning publications and publishing, Article 71 that states: “Any work is absolutely prohibited from being published if it involves instigation against Islam or the system of ruling, or if it causes harm to the interest of the state or the values of society.” via: <http://nmc.gov.ae/en/MediaLawsAndRegulation/4.pdf> (Last access 3 August 2016)

³⁵⁰ Federal Law No 15 for 1980 concerning publications and publishing, Article 72 that states: “No opinions shall be published if they violate public discipline and order, or involve insult to teenagers, or call for or circulate subversive ideas”

³⁵¹ Federal Law No 15 for 1980 concerning publications and publishing, Article 73 that states: “Any material is absolutely prohibited from being published, if it instigates criminal activity or incites hatred or provokes action of dissension among individuals of society.”

³⁵² Federal Law No 15 for 1980 concerning publications and publishing, Article 77 that states: “No article defaming Arabs and their civilisation and heritage shall be published”

³⁵³ Federal Law No 15 for 1980 concerning publications and publishing, Article 88 that states: “It is prohibited to publish in bad faith any false news about someone, or forge or tamper documents to relate them to such individual.”

³⁵⁴ The full text of (Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred) can be found in Appendix 2

³⁵⁵ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Issued on 15/7/2015, Article 1.

it is every speech on the Internet, industrial materials, modern means of technology, newspapers, radios, televisions, or YouTube programs. In addition, the definition illustrates some of the contexts of this speech, which are sedition, strife, and discrimination. However, it did not mention all of its contexts, such as hatred, violence, advocating animosity, mockery, calumny, and verbal abuse. It is obvious that the definition does not discuss the themes of speech as violations of the five constants of Islam, the Abrahamic religions, Islamic principles of justice and equality, and basic human rights. Furthermore, it does not focus on the potential effects of speech like offense or what is greater than it, such as disrupting public security or breaching others' rights.

On the other hand, article (1) continued to define several concepts related to hate speech in order to confirm the complete concept of it. It defined "Blasphemy" as: "any act of insulting or showing contempt for God, religions, prophets or messengers, holy books or places of worship according to the provisions of this Decree Law."³⁵⁶ When reviewing this definition through the Islamic law, we find that it coincides exactly with the latter's rules as will be illustrated in the next chapter.

Article (1) also defined discrimination as: "Any distinction, restriction, exclusion or preference among individuals or groups based on the ground of religion, creed, doctrine, sect, caste, race, colour or ethnic origin."³⁵⁷ It is clear that this text is in accord with the Islamic legislation. The latter forbids discrimination between citizens in rights and duties as well as in freedom of religious belief through the following texts of Islamic law.

Also, the UAE law on Combating Discrimination and Hatred guaranteed freedom of expression without prejudice to others' rights of belief; article (3) declares that: "No words or action which may incite to commit the crime of blasphemy or defamation of religions contrary to the provisions of the present Decree Law may be debated on the right of freedom and expression."³⁵⁸

In article (4), this law indicated forms of disrespect of religions, which are considered crimes under this law, which states:

"Any person who commits any of the following acts shall be sentenced for the crime of blasphemy:

1. Offending, showing contempt or irreverence toward the Divine Entity.

³⁵⁶ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 1

³⁵⁷ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 1

³⁵⁸ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 3

2. Offending, insulting, challenging, defaming or disrespecting any religion or any of its rituals or sacred things, or disrupting or preventing licensed religious observances or ceremonies by violence or threat.

3. Distorting, destroying, desecrating or insulting, in any way, any of the holy books.

4. Insulting, disrespecting, offending or defaming one of the messengers or their spouses, family or companions.

5. Destroying, damaging or desecrating the sanctity of places of worship, cemeteries or graves, appurtenances or any of their contents.”³⁵⁹

Article (6) mandates punishment for “Any person, who commits any act of discrimination of any form by any means of expression or by any other means”³⁶⁰. This article clearly criminalizes all forms of unfair treatment by any means of expression. Also, article 7 punishes “Any person, who commits any act involving hate speech by any means of expression or by any other means.”³⁶¹ This article expressly prohibited all hate speech by all means of expressions. the content of articles of this law are included under the content of hate speech, such as insulting the Divine entity, prophets, or religions, and breaching others’ rights. After that, this law moves to indicate the contexts of hate speech, as follow;

First, any expression that comes with the intent to instigate tribal division aiming to provoke hatred among individuals and groups is classified as hate speech.. Article (8) states that,

“Any person, who uses any means of expression or other means, to instigate tribal division aiming to provoke hatred among individuals and groups, shall be sentenced to imprisonment for a period not less than six months, and to a fine not less than fifty thousand dirhams or either one of these two penalties.”³⁶²

Second, any expression issued by a public officer or by a religious person, which leads to disturbance of public peace is considered as hate speech. Article (9) states that

“A penalty of imprisonment for a period not less than ten years and a fine not less than five hundred thousand dirhams and not exceeding two million dirhams or either one of these two penalties shall apply if the crimes referred to in Articles (5), (6), (7) of this Decree Law are committed by a public officer during or in the course of or by reason of the fulfilment of his duty or by a religious person or a person who is assigned to such capacity, or if the act was committed in a place of worship. If the acts referred to in Paragraph (1) of this Article have affected the public peace, the penalty shall be

³⁵⁹ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 4

³⁶⁰ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 6

³⁶¹ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 7

³⁶² Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 8

imprisonment for a period not less than ten years and a fine not less than five hundred thousand dirhams and not exceeding two million dirhams.”³⁶³

Third, any expression, based on a religious basis, that aims to further personal interests or illegal purposes is classified as hate speech. Article (10) states that,

“Any person, who misuses religion to call individuals or groups as infidels by any means aiming to achieve their own interests or illegal purposes, shall be sentenced to temporary imprisonment. The sentence shall be death penalty if the call of infidelity was associated with death, and where the crime was committed as a result thereof.”³⁶⁴

In the above article, it is notable that if hate speech causes murder, the penalty is the death sentence. Thus, these articles focused on direct connection between hate speech and its impacts. In addition, the law not only criminalizes the hate speech producer, but also incriminates whoever contributes to spread it, possesses any device that carries it, establishes an organization or group intending to provoke it, or holds a conference or meeting aiming at raising it. Likewise, the punishment of hate speech includes each one who joins groups, conferences or meetings that issue it. Penalties for hatred discourse also apply to the supporter of individuals, groups, organizations, conferences, and meetings that provide it. Based on the foregoing, the following acts are seen as committing the crime of hate speech:

- 1- Producing or publishing informative, industrial, or other materials calling for hate speech³⁶⁵,
- 2- Possession of informative or industrial materials calling for hate speech³⁶⁶.

³⁶³ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 9

³⁶⁴ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 10

³⁶⁵ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 11 states that: “Any person who produces, manufactures, promotes, offers for sale or circulates products, goods, publications, recordings, movies, tapes, discs, software, smart applications or information in the field of electronic service or any other industrial materials or other things involving the means of expression, which may incite to commit blasphemy, or provoke discrimination or hate speech, shall be sentenced to imprisonment for a period not exceeding seven years and to a fine of not less than five hundred thousand dirhams and not exceeding two million dirhams.”

³⁶⁶ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 12 states that: “Any person, who acquires or possesses documents, publications, recordings, movies, tapes, discs, software, smart applications or information in the field of electronic services or any industrial materials or other things involving the means of expression that are intended for distribution or open for public aiming to offend religions, provoke discrimination or hate speech, shall be sentenced to imprisonment for a period not less than one year, and to a fine not less than fifty thousand dirhams and not exceeding two hundred thousand dirhams. Moreover, the same punishment shall apply to any person who acquires or

- 3- Establishing unofficial bodies aiming at provoking hate speech³⁶⁷,
 - 4- Holding or organizing conferences or meetings to issue hate speech³⁶⁸,
 - 5- Joining the unofficial bodies that call for arousing any type of hate speech³⁶⁹,
 - 6- Participating in conferences and meetings calling for any type of hate speech³⁷⁰,
- and
- 7- Dealing with or supporting any person or that produces any type of hate speech.³⁷¹

After studying and reviewing these articles of anti-discrimination and hate speech legislation, it is important to point out that this law is a good example to explain the concept of hate speech. That is because it discusses all forms and contents of hate speech, as well as the means of its release and the deeds that encourage it. However, after looking deeply at the definition of hate speech, we see that it is not comprehensive, for it is very brief and does not include all of the important aspects related to hatred discourse. For instance, it does not mention its contents, forms,

possesses any means of printing, recording, storage, sound or visual recording devices or other means of publication, broadcasting or promotion that are used, with his knowledge, in the commission of any of the crimes set forth in the present Federal Decree.”

³⁶⁷ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 13 states that: “Any person, who establishes, sets up, organizes or manages an association, centre, entity, organization, league or group or any branch thereof or uses any other means aiming to offend religions, or provoke discrimination or hate speech or any act involving encouragement or promotion of the same shall be sentenced to imprisonment for a period not less than ten years.”

³⁶⁸ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 15 states that: “Any person, who holds or organises a conference or a meeting in the State intended to offend religions, or to provoke discrimination or hate speech, shall be sentenced to imprisonment for a period not less than five years.”

³⁶⁹ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 14 states that: “Any person, who joins, participates in or assists any of the parties referred to in Article (13) of this Decree Law, knowing of its objectives, shall be sentenced to imprisonment for a period not exceeding seven years.”

³⁷⁰ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 15 incriminates by prison sentence for not less than five years.

“Any person, who participates in the conference or the meeting, knowing of its objectives, shall be sentenced to the same punishment. The public authority may stop the conference or the meeting with the use of force if necessary.”

³⁷¹ Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Article 16 states that: “Any person, who provides, offers, demands, accepts, obtains, hands over or receives funds or material support, either directly or indirectly, with the aim to commit any of the acts punished under the provisions of the present Decree Law, shall be sentenced to imprisonment and to a fine not less than two hundred fifty thousand dirhams and not exceeding one million dirhams.”

results, the element of intention, or direct contact between speech and potential effect. Although the definition itself is not able to provide an integral concept of hate speech, the sum of the articles of this law gives a perfect concept of it from the perspective of Islamic law, as will be mentioned later.

3. 5. Freedom of Expression and Hate Speech Under the Official Islamic Organizations

3. 5. 0. Introduction

On the regional level, there are some Islamic documents, whether those related to human rights, such as the Cairo Declaration on Human Rights in Islam³⁷², or those related to great Islamic fatwa bodies, such as Al-Azhar AL-Sharif³⁷³ and the Saudi Council of Senior Scholars³⁷⁴, that have not been able to accurately conceptualize the term “hate speech.” This has significantly contributed to the emergence of an immense problem, which is the inability to determine where the limits of free speech begin and where they end, and when the speech is considered hateful and when it is protected under freedom of speech. Despite the absence of a precise concept for defining hate speech, these documents have criminalized many contexts of hate speech such as incitement, contempt of religions, and discrimination on the basis of race, religion, language or sex, etc. This section reviews the attitude of some Islamic organizations towards the line between freedom of expression and hate speech.

3. 5. 1. The Cairo Declaration on Human Rights in Islam

The Cairo Declaration ensures the equality of all human beings "in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race,

³⁷² The Cairo Declaration On Human Rights In Islam, entered into force 23 March 1976), It was adopted by Council of Foreign Ministers at Organization of the Islamic World Conference, Cairo, August 5, 1990, via: <http://www.oic-oci.org/english/article/human.htm> (Last access July 11, 2016)

³⁷³ Al-Azhar Document on Renouncing Violence on 31/1/2013, via: <http://www.skynewsarabia.com/web/article/72647/%D9%86%D8%B5-%D9%88%D8%AB%D9%8A%D9%82%D8%A9-%D8%A7%D9%84%D8%A7%D9%94%D8%B2%D9%87%D8%B1-%D9%84%D9%86%D8%A8%D8%B0-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D9%85%D8%B5%D8%B1> (Last access July 11, 2016)

³⁷⁴ The Council of Senior Scholars (Majlis Hay'at Kibar al-'Ulama, also known as the Senior Council of Ulema) is the highest religious body in the Kingdom of Saudi Arabia, and is authorized to issue fatwas in all aspects of Muslims life. This council includes a number of senior scholars in Saudi Arabia. It was founded by royal decree, number 137/1 on 29/08/1971. For more information, visit the official website of The Council of Senior Scholars via: <http://www.alifta.net/> (Last access July 11, 2016)

color, language, belief, sex, religion, political affiliation, social status or other considerations."³⁷⁵ Through this article, it is possible to conclude implicate features of the dividing line between the freedom of speech and hate speech. Freedom of expression is one of the basic human rights that proceed from the principle of equality, and in return, discrimination on any grounds is one of the contexts of hate speech that justifies restrictions imposed upon it.

Like the domestic laws of Islamic states, the Cairo Declaration has articles relating to freedom of belief that protect Islam and other religions from defamation, and ensure the rights of followers of these religions. "It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism."³⁷⁶ Thus, no person or group has the right to use hate speech in "the form of pressure" against the other on the basis of religious belief. The declaration ensures the right of press and the right to access and share information. Article (22 / c) stipulates that: "Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith."³⁷⁷ This articles declares that in addition to the protection of the right to access information, the rights of others must be protected by preventing the media from using any form of hate speech that affects the religious sanctities or the dignity of Prophets or that results in harming the community or the moral values or that contributes to sedition. This article, in para (d), expands the scope of restrictions on freedom of expression to include any context aimed to "excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination."³⁷⁸ This article is explicit in putting restrictions on the freedom of expression in order to maintain a balance between the protection of freedom of expression and the criminalization of incitement and hate speech.

These principles that are included in the Islamic Declaration of Human Rights involve the clear criminalization of several forms of expression which aim to incite hatred or incitement against others on different grounds such as race, religion or origin ... In addition, these principles explained some contexts where such speech like incitement, racial discrimination, contempt of

³⁷⁵ The Cairo Declaration On Human Rights In Islam, Article 1

³⁷⁶ The Cairo Declaration On Human Rights In Islam, Article 10

³⁷⁷ The Cairo Declaration On Human Rights In Islam, Article 22, para c.

³⁷⁸ The Cairo Declaration On Human Rights In Islam, Article 22, para d.

religions, hostility, and hatred is forbidden, but did not include an accurate definition of hate speech or determine the impact of this speech in a way makes it clear whether it is hate speech or whether it falls within the concept of freedom of expression.

3. 5. 2. Al-Azhar AL-Sharif

In a meeting sponsored by Al-Azhar Al-Sharif on 31/1/2013, the Egyptian political forces signed a document to renounce violence in an attempt to end the ongoing violence in Egypt. Having realized the danger of incitement and hatred speech, Al-Azhar Al-Sharif sought to hold this meeting in order to develop a document that authorizes claiming rights and guarantees freedoms, while also criminalizing all forms of incitement and hate speech that result in breaching national security and violating the rights of others.

Article (4) stipulated that the political forces must be committed to condemn " the incitement to violence, and rationalizing, justifying, promoting, defending, or exploiting it in any form."³⁷⁹ Thus, all forms of explicit and implicit incitement should be rejected. This document then goes on to expand the criminalization of other contexts of hate speech in addition to incitement to include calling " to violence, inciting it, being silent on it; distorting others and rumor-mongering"³⁸⁰ Finally, in order to limit forms of hatred, the document stresses on "the need to protect the national fabric from both real and unreal sectarian strife and from racist messages."³⁸¹

Although Al-Azhar's document on renouncing violence criminalized many forms of hate speech, such as "incitement, defaming others, rumor-mongering, the violation of others' moral rights, sectarian conflict, racial messages," it did not provide a clear conceptualization of hate speech, and did not use the term "hate speech" in any its provisions. The issuance of this document at a time of political and civil unrest in Egypt in light of Al-Azhar's realization of the dangerous role of hate speech in all events, made it imperative for Al-Azhar to define hate speech. In addition, it was necessary to distinguish between the criminalization of hate speech, on one hand, and protection of the freedom of expression, on the other hand.

³⁷⁹ Al-Azhar Document on Renouncing Violence, Article 4

³⁸⁰ Al-Azhar Document on Renouncing Violence, Article 6

³⁸¹ Al-Azhar Document on Renouncing Violence, Article 9

3. 5. 3. The Saudi Council of Senior Scholars

The Saudi Council of Senior Scholars has played an important role in combating forms of hate speech issued by terrorist groups and preventing the spread of such speech because this body is aware of the danger of hate speech and all its forms and contexts which destabilize security and violate the rights of others.

In a statement issued by the council of Senior Scholars at the conclusion of its 80th session held in Riyadh starting in 09/13/2014, the council stressed that terrorism is a heinous crime and that injustice and aggression are rejected by Sharia in all its forms. Any fatwa or opinion that incites to terrorism is considered "one of the most dangerous things and most infamous one and it is not permissible in any way to justify the crimes of terrorism under any pretext."³⁸² This statement emphasizes "that Allah Almighty has warned of issuing fatwas without knowledge as He explained in His book, the holy Quran."³⁸³ The council further says that

"whoever issues such fatwas or opinions that justify terrorism by whatever means, the ruler shall be committed to bring him/them to justice, for the protection of nation and religion, stressing that the risk of those fatwas are maximized if they were intended to destabilize the security and sow discord and unrest, especially if the target is to solicit the young people, and those who are not aware of the facts of these fatwas, fraud and deceive them and their minds under flimsy, and camouflage arguments, and false purposes, and all that is outrageous and dangerous in the religion of Islam and not acceptable to Muslims who know the limits of Sharia, its logic and noble goals and purposes".³⁸⁴

The statement also warns that "the work of those who issue fatwas without knowledge is of the greatest causes of the nation's division and the dissemination of animosities among its members."

³⁸⁵

In a statement issued on 03/06/2011, the Council of Senior Scholars that declared "The Council emphasizes that its reformed juristic procedures and advice are intended to prevent evil, including

³⁸² A Statement on Terrorism: its Danger and Combat, Issued by the Council at the Conclusion of Its 80th Session Held in Riyadh Starting from 09-13-2014, via: <http://www.mofa.gov.sa/m/en/info/Pages/viewarticle.aspx?pageurl=/sites/mofaen/ServicesAndInformation/news/GovernmentNews/Pages/ArticleID2014917153454334.aspx> (Last access July 11, 2016)

³⁸³ Ibid

³⁸⁴ Ibid

³⁸⁵ Ibid

the evil that results from issuing and collecting signatures on statements that express intimidation and provoke strife..”³⁸⁶

Based on the above, fatwa is considered one of the means of expression that have a significant impact on the Muslim community. Al-Qaeda, ISIS, and Houthis used fatwas calling for incitement to murder and violence, and hence, the official statements mentioned above demonstrate the danger of such fatwas and their role in sowing hatred and stirring up sedition. Although the statements issued by the Council of Senior Scholars were clear in prohibiting any form of hate speech leading to disturbing public security or creating conflict or hatred between the components of the Muslim society, these statements did not explain the concept of hate speech in-depth and did not detail the standards and elements of this speech. This makes working to confront and eliminate it difficult in the absence of a precise conceptualization of this speech.

3. 6. Conclusion

The international and regional instruments have struggled to find answers in the difficult balancing exercise of preventing hate speech and protecting the freedom of expression. Nevertheless, these instruments has identified conditions of restrictions on freedom of expression to take into account, albeit not in an altogether systematic or refined fashion. These conditions are embodied in the following,

1. The restrictions must be provided by law. In the absence of this condition, it must be moved to the application of the following two conditions of restrictions on freedom of expression.
2. They must be necessary to protect other’s freedoms based only on pressing need to limit freedom of expression and in the least restrictive possible.

³⁸⁶ A Statement on the sanctity of the demonstrations and Its threat to the Islamic nation, It's issued by the Council at the conclusion on 03-06-2011, Islamic Research Journal, Volume. 93, p. 381, The General Presidency of Scholarly Research and Ifta. via:
<http://www.alifta.net/Search/ResultDetails.aspx?language=ar&lang=ar&view=result&fatwaNum=&FatwaNumID=&ID=13353&searchScope=2&SearchScopeLevels1=&SearchScopeLevels2=&highLight=1&SearchType=exact&SearchMoesar=false&bookID=&LeftVal=0&RightVal=0&simple=&SearchCriteria=allwords&PagePath=&siteSection=1&searchkeyword=217132217132216167216181217132216167216173032217136216167217132217134216181217138216173216169032216167216179217132217136216168217135216167032216167217132216180216177216185217138092#firstKeyWordFound> (Last access July 11, 2016)

3. They must be based on a legitimate aim, such as for protection of national security, public order, public health or morals, or respect for the rights and reputations of others.

'Hate speech' remains an ambiguous concept, and there is no universally accepted definition. However, hate speech, as a general concept, includes many forms of negative expression that exceed moderate expression to extreme forms of expression. By analyzing relevant articles of legislation, this chapter found out that it is possible to conclude five criteria, which are form, promoter, content, context, and potential impact of speech, to discuss the concept of hate speech, to identify the constraints on freedom of expression and to identify incitement to hating. First, the form of speech means the template in which it comes, whether 'words' or 'acts'. The form of 'words' includes any expression that comes in direct speeches, statements, declarations, advertisements, rumors, chants, articles, books, messages, publications, audio material, fatwas, e-mail messages, promotion materials, cartoons, or in any of the forms of modern expression. In contrast, any action which supports hate speech, whether in the form of public support, justification, publishing, helping to spread hate speech, such as creating the suitable atmosphere for promoting this speech through holding or participating in meetings or conferences that use hate speech, or by providing financial support to it, sponsoring it, or protecting it, falls under the form of 'acts'. Second, the content of speech refers to the areas that the expression violates, such; national, racial, or religious origin, race, color, religion, language, human dignity, and human rights. Third, the promoter of expression includes any individual or any group with an official capacity, or any ordinary person or an unofficial group. Fourth, the contexts of hate speech are what determine the intention of the promoter of expression, such as calling or incitement to any forms of hatred, hostility or violence. Fifth, the potential impact of speech refers to a direct connection between the expression and its effects. Thus, after presenting some theories on the definition of hate speech, this chapter concludes that there is no significant dispute about three general standards, which are the form of speech, the content of speech and the type of promoter of speech. However there is broad disagreement in the other two components, which are the context of speech and the impacts of speech. This dispute has contributed to the ambiguity of the definition of hate speech.

This chapter also reviewed the legislation of Islamic states such as Saudi Arabia, Egypt, Lebanon, Iran, and the United Arab Emirates. All of these states' legislative documents discuss freedom, rights, and limitations on these rights through their Constitutions, and other laws of Penal code,

Criminal code, Publications, and Cyber Crime. Moreover, they address the attitude of Islamic organizations, such as the Cairo Declaration on Human Rights in Islam, the Al-Azhar Document on Renouncing Violence, and the Saudi Council of Senior Scholars towards hate speech and the means used to prevent its spread in Muslim communities. This chapter concluded that all these legislative efforts fail to define or make a direct reference to the term "hate speech." It is not included in any law. However, the legislation reviewed addresses corollary issues such as discrimination, justice, race, color, language, political affiliation, sectarian basis, violation of rights, freedom to perform all religious observances, and the free formation and functioning of political parties, and deny all forms of hatred that could hurt others. The mention of the contexts in which hate speech occurs, without a clear conceptualization of this speech and the identification of its elements, leaves the door open to interpretation and classification in criminalizing this speech and considering an act to be hate speech on one hand and regarding it as part of freedom of expression on the other hand. Although local and regional Islamic legislation has provided an appropriate ground for combating and criminalizing hate speech, even in the case of the Iranian legislation that carries the same attitude as legislation in Sunni countries, it is difficult to identify the mechanisms of dealing with hate speech in the absence of an accurate conceptualization of this speech.

There is an exception from the above-mentioned legislation embodied in the UAE Law No. 2 of 2015 on Combating Discrimination and Hatred. This study pointed out that this law is a good example of explaining the concept of hate speech. That is because it discussed all forms and contents of hate speech, as well as the means of its release and the deeds that encourage it. However, after looking deeply at the definition of hate speech mentioned in this law, namely: "Any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups," it is clear that it is not comprehensive, for it is very brief and does not include all of the important aspects related to the discourse of hatred. For instance, it does not mention the contents, forms, results, element of intention, or direct contact between speech and potential effect. Although the definition itself is not able to provide an integral concept of hate speech, the sum of the articles of this law gives a clear conceptualization of hate speech.

Chapter 4: *The Line Between Freedom of Expression and Hate Speech from Traditional Islamic Perspective*

"Most of the world sees Muslims and Muslim rulers who flagrantly violate universal standards of human rights and freedoms, but does not pause to consider whether these violations are in any way allowed, tolerated, or condoned by Islam" Jallow AY³⁸⁷

4. 0. Introduction

A review of the provisions of international law concerning the criminalization of forms of hate speech shows Islamic legislation to be in line generally with international law in preventing all forms of hate speech. International law has contributed to raising awareness of the concept of hate speech and developing a legislative basis on which national legislative bodies can build. However, although international law has identified the elements of hate speech more clearly than has official Islamic legislation, in both international law and modern Islamic legislation “hate speech” is still a vague term. It has not been specifically and clearly defined. Modern forms of Islamic legislation, in addition to international law, have brought multiple and varied concepts of hate speech together, but the definition of hate speech is still ambiguous. It needs more precision and clarity instead of keeping the door open to multiple interpretations on Islamic and international levels.

The absence of a clear definition of hate speech in the legislation of Muslim countries, even the United Arab Emirates, which pioneered the enactment of a special law for hate speech, and of modern Islamic organizations such as Al-Azhar Al-Sharif and the Saudi Council of Senior Scholars, makes it one of the most complex issues to deal with. Therefore, conflicts and disagreement will continue. At the same time, many researchers, legal experts, and those interested in the Muslim world, have not defined hate speech through the perspective of Islamic law, but rather have followed the same approach of this legislation in criminalizing forms of hate speech and trying to find solutions in order to prevent it. However, it is hard to find solutions for hate speech while it is still not precisely defined by traditional Islamic law. Developing a definition for hate speech is important because it can serve as a legal premise upon which judgments can be based in court.

³⁸⁷ Jallow AY (2015) Freedom of Expression from the Islamic Perspective, Mass Communication Journalism 5:278. doi:10.4172/2165-7912.1000278

Traditional Islamic law is often accused of violating the right to freedom of expression through the different forms of repression of freedoms. Whereas on the other side, it is accused of opening the door to hate speech, incitement and discrimination on religious and political grounds. This ambiguity is due to the lack of an accurate understanding of the provisions of traditional Islamic law with regard to these issues. Instead, they rely on illegal practices, whether by Islamic governments in violation of the right to freedom of expression and by extremist groups, who ascribe themselves to Islam whilst using hate speech. These practices do not necessarily reflect the position of traditional Islamic law on freedom of expression and hate speech. It is difficult to define the position of traditional Islamic law if addressed through discourses of some Muslim groups; doctrines or countries. This is due to the fact that most of them violate the rules of Islamic law relating to Islamic discourse. Islamic law is the only source that must regulate the provisions of Islamic discourse.³⁸⁸

This chapter aims to examine the interaction between freedoms and limitations with regard to freedom of expression and hate speech. To discuss these matter, the chapter is divided into four sections. The first section focuses on important issues related to the concept of Islamic discourse and the most prominent types of this discourse at present. The next section discusses the concept of freedom of expression, including its essential objectives, its principles and its conditions and limitations, from a traditional Islamic perspective. The third section addresses firstly the concept of hate speech through the provisions of primary sources of Islamic law, which are the Quran and Sunnah, and the secondary sources such as consensus, juristic reasoning, preference, and public interest in order to define this concept as precisely as possible. This chapter adopts five elements, which are: forms; promoters; contents; contexts and effects of speech, to conclude a holistic and explanatory definition of hate speech.

4. 1. Islamic Discourse

4. 1. 0. Introduction

With growing political conflicts, worsening economic crisis, and massive development of technology, the most contemporary Muslims have become unable to comprehend the real position

³⁸⁸ Mohsen Kadivar, *Apostasy, Blasphemy, & Religious Freedom in Islam*, p. 307, Publisher: Official Website of Mohsen Kadivar 2014

of Islamic law with regard to several issues. Thus, they have become only recipients of different discourses, which may violate the principles and rules of Islamic law. It is difficult to define Islamic discourse if addressed through discourses of some Muslim groups, doctrines or countries. This is due to the fact that most of them violate the rules of Islamic law relating to Islamic discourse. Islamic law is the only source that must regulate the provisions of Islamic discourse.

In addition, Islamic discourse is an important issue to discuss, because the number of Muslims who are merely recipients are increasing widely around the world, which has played a prominent role in most events of the world. According to the Pew Research Center, Islam is the world's fastest-growing religion.³⁸⁹ As a result, the number of Muslims in 2050 will nearly equal the number of Christians around the world.³⁹⁰ The Islamic discourse has been the greatest influence on the political and social life in the Muslim World over the past 30 years. Islamic discourse is considered the first political actor, which has been quite influential in the emergence and escalation of events. This growth in the number of Muslims necessitates that the Islamic discourse and its positive and negative roles must be closely studied and analyzed. Islamic discourse must have value, effectiveness and significance, and it must be coherent to everyone.

This section endeavors to encapsulate important issues related to the definition of Islamic discourse and the most prominent types of this discourse at present. First, this section focuses on the concept of discourse per se in the Arabic language and the sources of revelation- the Quran and the Sunnah, and then present "discourse" through modern concepts. It concludes by providing a precise definition of Islamic discourse. Second, this section addresses the attitudes of Islamic discourse to clarify its content and its characteristics. Finally, it provides an integrated vision about the most prominent types of contemporary Islamic discourse, of which there are three: religious, Islamic political, and Islamic media. More specifically, it focuses on the definition; significance; objectives; means and conditions of the renewal of religious discourse. It also analyzes some contemporary political discourses, whether issued by official or unofficial bodies.

³⁸⁹ Michael Lipka & Conrad Hackett, Why Muslims are the World's fastest-growing religious group, Pew Research Center, via: <http://www.pewresearch.org/fact-tank/2015/04/23/why-muslims-are-the-worlds-fastest-growing-religious-group/> (Last access February 2016)

³⁹⁰ Ibid

4. 1. 1. The Concept of Discourse Per se

For Muslims, the word "discourse", when used alone, has two concepts, which are;

4. 1. 1. 0. The Concept, which is Authentic, Constant, Simple, and Non-Compound

The concept, which is authentic, constant, simple, and non-compound, exists in the Arabic language, and the source of revelation: the Quran and the Sunnah.

4. 1. 1. 0. 0. The Concept of Discourse in the Arabic Language

Since Islamic legislation is revealed in the Arabic language, the word “discourse” should first be defined in this language to clarify its essence and absolutes. According to the Lisan Al Arab dictionary, "discourse" is defined literally as "the exchange of speech"³⁹¹. Words that do not clarify a matter for the recipient cannot be termed as a discourse.³⁹² In addition, the context and circumstances in which discourse was made must be taken into account.³⁹³ Consequently, discourse, on a linguistic level, can be defined as the words aimed to illustrate an issue to the recipient, who is able to understand and take into account the context the temporal and spatial circumstances in which these words were expressed.

Methods of discourse, according to the Arabic language, are divided into two types, direct and indirect discourse. In the science of the Arabic language, direct discourse is known as "the explicit discourse". This discourse can be defined as the reporting of speech, in which the speaker's exact words are quoted. It is a simple and clear discourse in its form and content, which can be understood by all recipients without further clarification. Meanwhile, indirect discourse is known as "the implicit discourse". It is designed to deliver the meaning of discourse to the recipient through indirect implicit symbolism without quoting it explicitly as is the case with direct

³⁹¹ Ibn Manzur, Lisan al-Arab (The Arab Tongue), Volume.5, p. 98 Dar Sader Publication; 3rd edition (2000).

³⁹² Abdulaziz Altwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015).

³⁹³ Fathi Attia, Religious discourse between Heritage and Contemporary, Al-Azhar between research and public relations, (2015) via: <http://kenanaonline.com/users/fathiattia/posts/757223> (Last access December 2015).

discourse. These implicit symbols are a means of expressing the content and essence of that discourse.³⁹⁴

4. 1. 1. 0. 1. The Concept of Discourse in the Revelation Sources; the Quran and the Sunnah

The term “discourse” occurs several times in the Quran and the Sunnah in various forms.³⁹⁵ The meaning of "discourse" in the revealed sources is in full accordance with the linguistic definition.³⁹⁶ However, Altuwaijri asserts that, at the Quranic level:

"The speech is often associated with pride and honour, might, and wisdom, as well as with magnanimity and the eminence of Allah, Exalted be His Name. This association provides a good opportunity to ponder the deep meaning of discourse that transcends the original synonym of discourse as the exchange of speech or the desire to enlighten others to a much loftier sense closely associated with sublime notions."³⁹⁷

Since the Quranic texts are the words of God, and the Sunnah texts are the words of the Prophet Muhammad that he issued by the order of God, there are two types of discourse of God directed to humanity. First, the discourse that provides information about the essence and attributes of God, the universe, or the events of the hereafter. Muslims must believe this discourse in accordance with its contents. Second, is the discourse that aims to enact legal rulings. This discourse can exist in the form of an order, the granting of a choice, or asserting a relationship.³⁹⁸ Accordingly, the constants in divine discourse, including the two types, are that which is supported by strong evidence, such as the evidence of primary sources. In contrast, non-constants in divine discourse are that which are supported by presumptive evidence, such as the evidence of secondary sources.³⁹⁹

³⁹⁴ Muhammad Al Jizani, Landmarks of Jurisprudence Origins (Maalim Usul Alfigh eind Ahle sunnah wal jama'ah), 5th edition, Dar Ibn Al Jawzi Publication, 2005, p. 446.

³⁹⁵ Dalilah Qasimah, Discourse Strategies in the Hadith, Al Hadj Lakhdar University, Algeria, (2012), p. 11.

³⁹⁶ Ibid.

³⁹⁷ Abdulaziz Altuwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015).

³⁹⁸ Bin Bayyah. Abdullah, “Islamic Discourse Between The Conclusive and The Variable” Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 12.

³⁹⁹ Ibid.

4. 1. 1. 1. Discourse in Modern Islamic Concepts

This discourse is defined as a philosophical term.⁴⁰⁰ In this sense, the discourse of a person is his way of expressing his ideas, concepts and creeds. Subsequently, this concept extends to be prevalent in modern political discourse.⁴⁰¹ Thus, the discourse of a state or a political group is the disclosure of its political creed and orientation. By the same token, Islamic discourses, at first glance, fall under the modern philosophical concept of discourse, whether they are issued by Islamic states, organizations, individual, or even by groups claiming to be Muslims.⁴⁰²

4. 1. 2. Definition of Islamic Discourse

Islamic law, as mentioned in the previous chapter when defining Islamic law, covers all aspects of a Muslim's life, be it religious, political or economic... etc. As a result, all types of discourses issued by an Islamic entity, such as: cultural; literary; artistic and political etc, must be under the definition, conditions, and limitations of Islamic discourse. Some Islamic researchers assert that the Islamic discourse is considered a communication process between the intellectual reference, which issued the discourse, and the public to deliver a specific idea. Therefore, Islamic discourse is a means or template to express the contents of a specific idea.⁴⁰³ Muhammad Yunus defines the Islamic discourse as a "Collection of essays, perceptions and visions posed by the religious scholars, preachers and thinkers about the issues of society based on the Islamic religion directly or indirectly."⁴⁰⁴ Conversely, others view the concept of Islamic discourse as not limited to its formal side, but even includes its essence and contents, and thus this discourse aims to influence and convince the recipient with its contents derived from the concepts, principles, and

⁴⁰⁰ Abdulaziz Altwaijri, *Islamic Discourse between Tradition and Modernity*, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015)

⁴⁰¹ Al-Bashir I. Ahmed, *Attributes of Contemporary Islamic Discourse*, Fajr Al-hurria Newspaper, Egypt, 05-11-2011, via: <http://www.25yanayer.net/%D8%B3%D9%85%D8%A7%D8%AA-%D8%A7%D9%84%D8%AE%D8%B7%D8%A7%D8%A8-%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%8A-%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D8%B5%D8%B1-2/> (Last access December 2015).

⁴⁰² Ibid.

⁴⁰³ Mahmud Al rajabi, *Attitudes of Islamic Discourse in News Websites*, Middle East University, (2012), p. 34.

⁴⁰⁴ Muhammad Yunus, *Renewal of Islamic Discourse from the Pulpit to the Internet*, Arab House Publishing, Cairo, (2013), p. 71

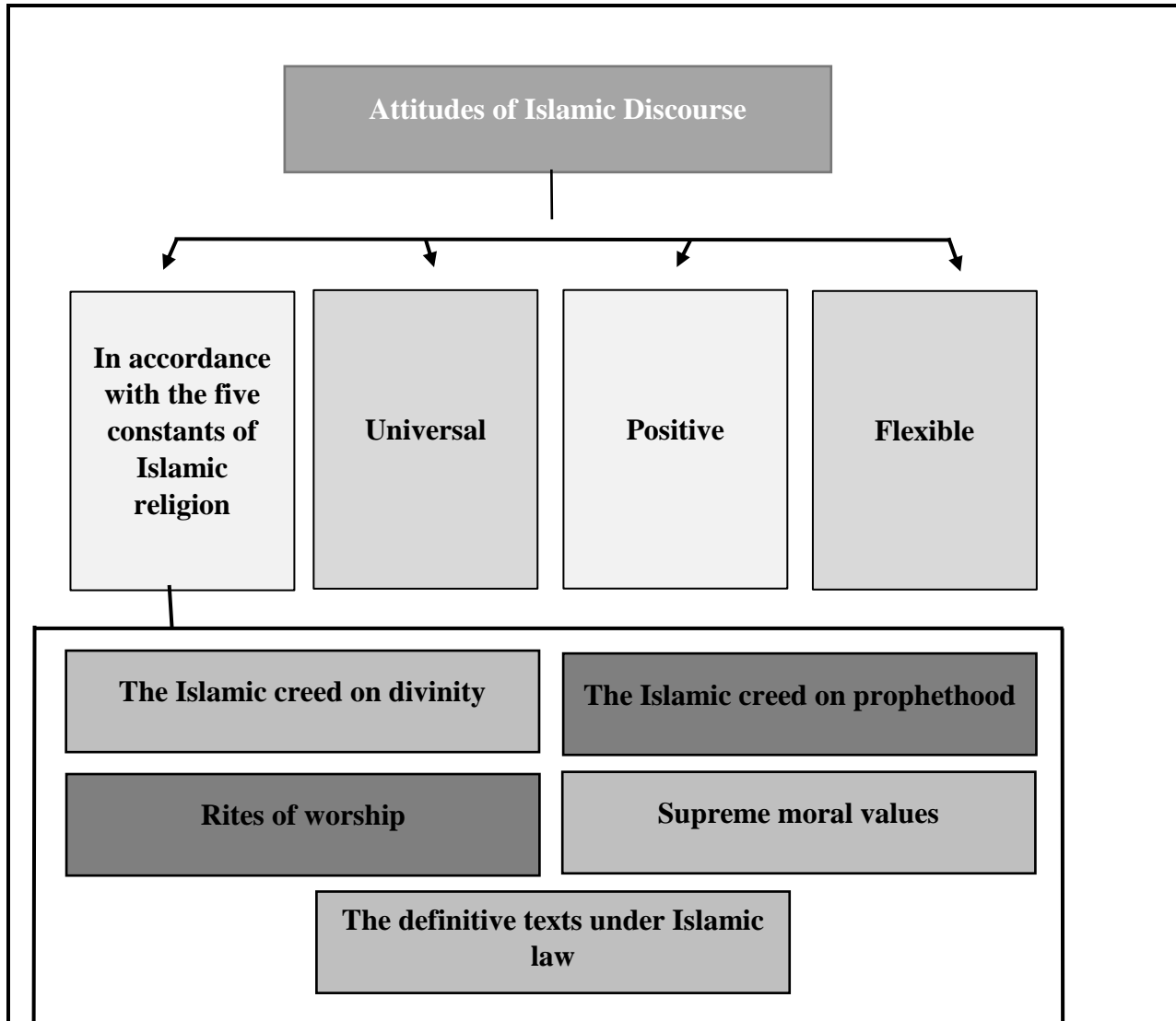
objectives of Islam.⁴⁰⁵ In summary, the primary standards that must be met in the definition of Islamic discourse are that it derives from an Islamic referential framework that expresses the cultural and civilizational identity of the Islamic community. A discourse cannot be called Islamic unless these standards exist. Accordingly, Islamic discourse can be defined as discourse that is based on an Islamic reference, whether it was from the primary or from secondary sources, and holds on to the immutable constants of the Islamic religion and sublime moral values, whether this discourse is issued by an official institution, a group or an individual.⁴⁰⁶

⁴⁰⁵ Ibid.

⁴⁰⁶ Wesam Foaad, *The Islamic Discourse; the Essence and Connotations of Renewal*, (2005), via: <http://wessamfauad.blogspot.com/2005/10/blog-post.html> (Last access December 2015)

4. 1. 3. Attitudes of Islamic Discourse

Figure (1): Attitudes of Islamic Discourse



4. 1. 3. 0. Islamic Discourse is in Accordance with the Five Constants of Islam

a. The Islamic creed on divinity, including matters of the attributes of God with regard to His omnipotence, divine decree, omniscience, mercy, creation, etc.⁴⁰⁷

⁴⁰⁷ Abdulaziz Altwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015). See, also, Bin Bayyah.

- b. The Islamic creed on prophethood,⁴⁰⁸ which requires that the speaker or author not violate the approach and sayings of the Prophet Muhammad. Under this constant, the speaker or author must recognize the status of the Companions, because they conveyed the message of revelation to successive generations. "They are the reliable mirrors that reflect a true image of the noble prophetic message".⁴⁰⁹ The Prophet Muhammad said: "Do not revile my Companions"⁴¹⁰. He also said: "my Companions are the keepers of my community"⁴¹¹
- c. Rites of worship that are a means of thanking God. Praying, fasting and performing the pilgrimage are the prominent examples of these rites.⁴¹²
- d. Supreme moral values that define man's relationship with others, such as sincerity, humility, and fidelity.⁴¹³
- e. The definitive texts under Islamic law that govern all aspects related to both domestic and international laws.⁴¹⁴

On the whole, all Islamic discourses must be constructed on these constants without any compromise or neglect, whatever the justification or circumstance, because they form the genuine identity and core message of Islam. Consequently, any discourse that violates these constants cannot be deemed Islamic.

Abdullah, "Islamic Discourse Between The Conclusive and The Variable", Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 16.

⁴⁰⁸ Bin Bayyah. Abdullah, "Islamic Discourse Between The Conclusive and The Variable" Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 18.

⁴⁰⁹ Ibid, p. 21.

⁴¹⁰ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 720, Vol. 2, (Muhammad Muhsin Khan trans.), Published by: Darussalam, Riyadh, 1997. See, also, Imam Muslim, Sahih Muslim, Hadith Number. 1082, Vol. 2, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁴¹¹ Imam Muslim, Sahih Muslim, Hadith Number. 1078, Volume. 2 (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁴¹² Abdulaziz Altwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015).

⁴¹³ Ibid.

⁴¹⁴ Ibid.

4. 1. 3. 1. Islamic Discourse is Universal

This means that Islamic discourse is not directed to Muslims only but also to non-Muslims.⁴¹⁵ For example, according to the Quran, Allah says:

"O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you."⁴¹⁶

By virtue of the fact that Islamic discourse, especially with regard to revelation discourse, seeks to promote the principles of peaceful coexistence and cooperation among nations in the light of justice and respect for privacy, it is universal and appropriate to all societies around the world. The next section will present some conditions and limitations on the freedom of expression under Islamic law that will provide the position of Islamic law relating to Islamic discourse with non-Muslims.

4. 1. 3. 2. Islamic Discourse is Positive

Islamic discourse is positive based on the dialogue with others in a moderate way, and it shuns all methods of extremism and violence.⁴¹⁷ According to the Quran in verse (29:46)⁴¹⁸:

"And dispute ye not with the People of the Book, except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury): but say, 'We believe in the revelation which has come down to us and in that which came down to you; Our God and your God is one; and it is to Him we bow (in Islam).'"

At the same time, Islamic discourse defends the interests of the Islamic Identity. It can be said that Islamic discourse is a form of checks and balances.

⁴¹⁵ Ashraf Abu Attiyah & Yahya Abu Zinah, Development of Religious Discourse as One of the Contemporary Educational Challenges, the Conference of the Islam and Contemporary Challenges, Islamic University in Medina, Saudi Arabi (2007), p. 687, 688.

⁴¹⁶ The Quran, verse (49:13).

⁴¹⁷ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 35.

⁴¹⁸ The Quran, verse (29:46).

4. 1. 3. 3. Islamic Discourse is Flexible

Islamic discourse is flexible, receptive to the international world, fully assimilates changes and new developments, and addresses all contemporary problems and challenges that arise.⁴¹⁹ Through the history of more than fourteen centuries, Islamic discourse is able to coexist with all stages and keeps pace with changes. As a result, it is still alive despite all the circumstances, and it exists in most regions of the world.

4. 1. 4. Types of Contemporary Islamic Discourse

Since Islam covers all aspects of life, there is not one single Islamic discourse, but several discourses that describe the status of Islamic society during a specific time and place. Consequently, the Islamic discourses have played a pivotal role, whether positive or negative, in conflicts and turmoil that occurred in Islamic states. Moreover, these discourses assist a person interested in Islamic affairs to gather background knowledge about the aspirations of the Islamic world, and understand the world. The Islamic discourse prevalent at the present time can be classified into the following categories:

4. 1. 4. 0. Religious Discourse

Religious discourse is focused on religious issues, values and rites. This discourse occurs in the forms of preaching or lectures to regulate, in addition to legislation, behavior, thought, and creed.⁴²⁰ Furthermore, it discusses all community issues and judicial precedents. Religious discourse, the role of which is limited to religious matters only, is a part of Islamic discourse, which covers all aspects, such as politics, the economy, and religion.⁴²¹ The differences among all schools of Islamic law, and even among Sunnis; Shia; Salafis and liberals are classified under the area of religious discourse. However, most discourses issued by Islamic schools, doctrines, and groups have become used primarily to achieve political objectives.⁴²² Thus, this research in later

⁴¹⁹ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 34.

⁴²⁰ Zayed Ahmed, Forms of the Contemporary Religious Discourse, Alaeen Publication, Cairo, (2007), p. 30

⁴²¹ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 32

⁴²² Ghalib Awaji, Contemporary Intellectual Doctrines and their Role in Contemporary Societies and the Position of the Muslim, Golden Modern Library, Jeddah, (2006), Volume 1, p. 134.

chapters will discuss extensively speeches from these schools of thought, doctrines, and groups from an Islamic perspective.

Religious discourse at present fails to achieve some important functions, such as: immunizing the Islamic societies against intellectual extremism, activating the commonalities among other religions and doctrines, along with providing a positive global image of Islam.⁴²³ Also, it fails to provide a basic thesis that agree on the political side and make up for the shortage and the imbalance that has occurred in Islamic jurisprudence during the eras of cultural decline, which increased the number of scientific publications regarding worship, provisions and poverty in the constitutional and political sphere.⁴²⁴ Moreover, the current religious discourse is not able to establish the value of citizenship, national unity, and patriotism and defends them and respects the dignity of citizens and equality amongst them regardless of religion or race.⁴²⁵ Furthermore, the religious discourse fails to rebuild the contemporary Muslim to be a civilized human being active in his community and a producer, and to understand the truth of Islam and its mission.⁴²⁶

These functions failed because of some factors that contributed to igniting several conflicts in the Islamic world. First, trying to find solutions to contemporary problems from the perspective of the past and focusing on the discussion of ideas of the past that have become extinct. Second, religious discourse became an exclusionary discourse, which means excluding discourses of different doctrines and religions. Third, failure to adopt the diverse methods of discourse in the texts of the Quran and the Sunnah.⁴²⁷ As a result, the renewal of religious discourse is an issue that has gained a great deal of attention by most Islamic scholars, jurists, and researchers. A set of intertwined issues related to the renewal of religious discourse must be discussed in the light of Islamic law.

⁴²³ Al Ansari Hameed, Can Religious Discourse be Renewed?, Al Bayan Newspaper, (2006), via: <http://www.albayan.ae/opinions/1162995663128-2006-11-13-1.960046> (last access January 2016).

⁴²⁴ Muhammad Yunus, Renewal of Islamic Discourse From the Pulpit to the Internet, Arab House Publishing, Cairo, (2013), p. 80

⁴²⁵ Jamal Bawatineh, The Renewal of Contemporary Religious Discourse is an Urgent Need, General Conference of the Twenty - First of the Supreme Council for Islamic Affairs, Cairo, (2009), p. 7

⁴²⁶ Muhammad Yunus, Renewal of Islamic Discourse From the Pulpit to the Internet, Arab House Publishing, Cairo, (2013), p. 80

⁴²⁷ Jamal Bawatineh, The Renewal of Contemporary Religious Discourse is an Urgent Need, General Conference of the Twenty - First of the Supreme Council for Islamic Affairs, Cairo, (2009), p. 7

4. 1. 4. 0. 0. Renewal of Religious Discourse

Islamic law enacted the continuous renewal of religious discourse without interruption. According to the Sunnah, the Prophet Muhammad says: "God sends to the Ummah every 100 years someone [or some people] who would renew the religion again."⁴²⁸ This text means "the continuation of renewal without interruption, renewal being an ongoing process with interconnected episodes."⁴²⁹

The renewal concept differs from one scholar to another, because the areas of religion that can be renewed are confined and are specific. Some researchers define the renewal of religious discourse as correcting the misconceptions about the essence and reality of the Islamic religion.⁴³⁰ In contrast, others contend: "Religion cannot be renewed, what can be renewed is people's understanding of this religion, their lives, and their interpretation and understanding of the precepts of the Sharia."⁴³¹ Yet another perspective believes that renewal of religious discourse is synonymous with "Ijtihad", which aims to "understanding the grand purpose of religion and the aims of the Sharia, implementing its precepts and being guided by its teachings, modernizing life, building the earth, and reforming mankind."⁴³² Therefore, all fields of Ijtihad are constructed in accordance with the concept of renewal. Consequently, the renewal of Islamic discourse can be defined as reviving the discursive relationship of Muslims with others by reforming the ways and contents of discourse and by renewing human understanding of this religion and its interpretation of the legislation of the Islam.⁴³³ However, the religion and its constants cannot be renewed. Muhammed Younis states: "Renewal does not mean a change in the essence of religion or its origins; it means return to the purity that it had on the day of its inception, with the originality of

⁴²⁸ Narrated by Abu Dawood in al-Malahim (512), and by al-Hakim in al-Fitan wa al-Malahim (576/4), and also by al-Tabarani in al-Awsat (522/4) on the authority of Abu Huraira.

⁴²⁹ Abdulaziz Altwaijri, Towards a Renewal of Islamic Thought, Publications of the Islamic Educational, Scientific and Cultural Organization -ISESCO-, (2014), p. 11.

⁴³⁰ Jamal Bawatineh, The Renewal of Contemporary Religious Discourse is an Urgent Need, General Conference of the Twenty - First of the Supreme Council for Islamic Affairs, Cairo, (2009), p. 8.

⁴³¹ Abdulaziz Altwaijri, Towards a Renewal of Islamic Thought, Publications of the Islamic Educational, Scientific and Cultural Organization -ISESCO-, (2014), p. 12.

⁴³² Ibid.

⁴³³ Nouredine Bocardad, Freedom of Expression in Islam, The Journal of Al Bayan, Indonesia 2012.

the intellectual pillars and constants. It also means the ability to accommodate developments over time and the magnitude of the issues and to determine the position of Sharia."⁴³⁴

Renewal supports the continuity of Islamic religion. Renewal does not mean that the religion is unable to cover all aspects of life; it means that the religion is valid, flexible and suitable for all times and all places, and thus it is proof of the continuity.⁴³⁵ In addition, renewal contributes to keep abreast with internal and external developments on the condition of maintaining religious specificities of Muslim societies.⁴³⁶ Renewal is considered a linked factor that provides harmony between tradition and modernity.

The renewal of religious discourse is important, because it aims to ensure the continuity of dialogue and cooperation with all of the parties of the international community. Also, it seeks to display the true picture of Islam, and aims to refute the allegations, doubts and hostile campaigns against Islam in the form of contemporary discourse.⁴³⁷ Moreover, the renewal seeks to fulfil the needs and aspirations of the future through an objective view of matters.⁴³⁸ Lastly, it aims to achieve the principle of human equality and justice with non-Muslims, and focuses on peaceful coexistence with non-Muslims, a substitute for the idea of conflict and conspiracy.⁴³⁹

Renewing the religious discourse entails some means that must be achieved, such as:

1. Renewing the civilizational and intellectual edifice of the Islamic world by supporting creativity in all fields of knowledge and science.⁴⁴⁰

⁴³⁴ Muhammad Yunus, *Renewal of Islamic Discourse from the Pulpit to the Internet*, Arab House Publishing, Cairo, (2013), p. 50- 70

⁴³⁵ Abdulaziz, *Towards a Renewal of Islamic Thought*, Publications of the Islamic Educational, Scientific and Cultural Organization -ISESCO-, (2014), p. 14.

⁴³⁶ Azhar Arsyad, *Renewal of Islamic Media Discourse: Form, Content, and Style*, The 2nd International Conference on Islamic Media, Muslim World League, (2011), p. 15.

⁴³⁷ Abdulaziz Altwaijri, *Islamic Discourse between Tradition and Modernity*, A Journal of Future Ideology that Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015).

⁴³⁸ Ibid

⁴³⁹ Muhammad Yunus, *Renewal of Islamic Discourse from the Pulpit to the Internet*, Arab House Publishing, Cairo, (2013), p. 82

⁴⁴⁰ Azhar Arsyad, *Renewal of Islamic Media Discourse: Form, Content, and Style*, The 2nd International Conference on Islamic Media, Muslim World League, (2011), p. 15

2. Providing the scientific and professional prerequisites in the form of the modern Islamic discourse to have positive impacts.⁴⁴¹
3. Using the new media forms, including Social media, to reshape the religious discourse in a form that can be understood by the contemporary generation, because traditional media forms are no longer of interest to many people.⁴⁴²
4. Focusing on the commonalities and the beneficial aspects of partnership among religions and doctrines.⁴⁴³
5. Adopting the monetary approach in the field of religious discourse, which will contribute to accepting non-Muslims in practicing their own religions freely.⁴⁴⁴

Renewing Islamic discourse must be within the framework of attitudes of Islamic discourse and the essential objectives and limitations of Islamic expression, which were reported previously. Renewal cannot negate or neglect these guidelines, especially with regard to the constants of Islam.⁴⁴⁵ Thus, the discourse will not be considered as a renewal in the condition of neglecting these attitudes, objectives and limitations. The claims of renewal are not limited to religious discourse, but extend to other Islamic discourses, such as political discourse, economic discourse, and cultural discourse. However, when religious discourse has been renewed, all Islamic discourses will, as a result, be renewed, because all aspects of life are subject to the provisions of religion.⁴⁴⁶

4. 1. 4. 1. Islamic Political Discourse

The Islamic political discourses can be divided into two sub-categories:

⁴⁴¹ Ibid.

⁴⁴² Means of Renewing Religious Discourse, Recommendations of Al-Awqaf Conference, held on Cairo, (2015), via: http://www.awkafonline.com/portal/wp-content/uploads/2015/08/Recommendations_English_25-5-2015.pdf (last access January 2016).

⁴⁴³ Al Ansari Hameed, Can Religious Discourse be renewed?, Al Bayan Newspaper, (2006), via: <http://www.albayan.ae/opinions/1162995663128-2006-11-13-1.960046> (last access January 2016).

⁴⁴⁴ Ibid.

⁴⁴⁵ Abdulaziz Altwijiri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology that Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015).

⁴⁴⁶ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 34.

4. 1. 4. 1. 0. The Official Political Discourse

This is a discourse issued by the official party accredited internationally and regionally and is divided into two further categories:

4. 1. 4. 1. 0. 0. Discourse of Islamic Governments

This discourse expresses the orientations of the state, its interests, its foreign relations and its role in international affairs. This discourse is governed by circumstances and political conflicts surrounding these states.⁴⁴⁷ As a result, Islamic states often seek to defend their cases and claims by implicit statements, the purpose of which is to highlight its presence in the international arena. Nevertheless, in a few instances, some Islamic states use an explicit discourse to defend their Islamic identity, their legitimate rights, and the rights of Islam and Muslims around the world. Saudi Arabia is the most prominent example of this discourse, especially with regard to the issue of the Zionist occupation of the Palestinian territories.⁴⁴⁸ It is clear that the discourse of Islamic governments, whether direct or indirect, occurs as a reaction and not so as an initiative.

Some official discourses issued by some Islamic governments emerged in the form of hostility and hatred against other Islamic states, and they often produced some political conflicts, which adversely influenced the community, such as official statements between the Iraqi government and the Kuwaiti government. For instance, when the previous president, Saddam, was before the investigative judge of the Iraqi court, he stated that the war with Kuwait was the natural result of speech issued by Kuwaitis.⁴⁴⁹ He further defended the honor of Iraqi women. He asked: "How Saddam could be tried over what he did in Kuwait after Kuwaitis said that they will reduce Iraqi women to 10-dinar prostitutes?"⁴⁵⁰ This was in sharp contrast to Saddam's previous speech, in which he used hate language, declaring that "...all diseases and bad distractions are found in the Kuwaiti people..."⁴⁵¹ By the same token, Iranian political discourse has always been

⁴⁴⁷ Yahya Omran, Specifications of Political Discourse, Hiba Press, (2014), via: <http://www.hibapress.com/details-21651.html> (Last access January 2016).

⁴⁴⁸ Kingdom Stance on Palestinian Issue, Kingdom of Saudi Arabia Ministry of Foreign Affairs, via: <http://www.mofa.gov.sa/sites/mofaen/KingdomForeignPolicy/Pages/PalestineCause34652.aspx> (Last access January 2016).

⁴⁴⁹ Jim Krane and Hamza Hendawi, Saddam Defiant before Iraqi Judge, Deseret News, (2004).

⁴⁵⁰ Ibid.

⁴⁵¹ Saddam Hussein Speaks about Kuwait in 1990, via <https://youtu.be/ZjYEtWqUplo> (last access January 2016).

characterized by hostile discourse against neighboring countries, especially against Saudi Arabia for various reasons, such as Iran's goals to expand in the Middle East and some religious reasons, which will be discussed in the chapter concerning hate speech between Sunni and Shia doctrine.

4.1.4.1.0.1. Discourses of International and Regional Organizations

These discourses are issued by the international and regional organizations consisting of a range of Arab or Islamic states, such as the League of Arab States⁴⁵² and the Organization of Islamic Cooperation. The discourses of these organizations distinguish the style of rejection, condemnation, appeals to the international community or plaudit to the international resolutions, and lack the influence and the ability to find solutions to problems that occur in the Islamic world. Moreover, their decisions are not binding on their members; they are optional. Here are some examples of these discourses:⁴⁵³

1. Resolution No: (600) of the final statement issued by the Council of the League of Arab States at the summit level of the regular session (25) in May 25-26 /2014 held in Kuwait:

"To call upon the Security Council to assume its responsibilities regarding a freeze in the path of negotiations between the opposition and the Syrian government in Geneva, and the request to the Secretary-General of the League to continue his consultations with the Secretary-General of the United Nations Joint Special Representative of the United Nations, the League of Arab States and the various parties concerned in order to reach the adoption of a joint move that will lead to the completion of a negotiated political solution to the Syrian crisis and approve the agreement on the formation of a transitional governing body that has full executive powers according to the text of a statement by the Geneva Conference 1."

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⁴⁵² The League of Arab States is a regional organization of Arab countries. It was formed in Cairo on 22 March 1945 with six members: Kingdom of Egypt, Kingdom of Iraq, Jordan, Lebanon, Saudi Arabia, and Syria. Currently, the League has 22 members, although Syria's participation has been suspended since November 2011. The League's main goal is to strengthen ties among the member states, coordinate their policies, and promote their common interests. For more details visit:

<http://www.lasportal.org/Pages/Welcome.aspx> (last access January 2016).

⁴⁵³ Amera Ahmad, Arab League VS the European Union.. Are they equal?!, Arageek, (2015), via: <http://www.arageek.com/2015/10/16/arabian-nation-university-and-euro-union.html> (Last access January 2016).

⁴⁵⁴ Decisions of the Council of League of Arab States at the summit level the regular session 25, in: 25-26 /5/2014 held in Kuwait, via:

<http://www.lasportal.org/ar/summits/Documents/%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA%20%D9%85%D8%AC%D9%84%D8%B3%20%D8%AC%D8%A7%D9%85%D8%B9%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9%20%D8%B9%D9%84%D9%8A%20%D9%85%D8%B3%D8%AA%D9%88%D9%89%20%D8%A7%D9%84%D9%82%D9%85%D8%A9%20%D8%A7%D9%84%D8%AF%D9%>

2. Resolution No: (24-25) of the final statement issued by the Organization of Islamic Cooperation at its (12) in 6-7/ 2/2013 held in Cairo:

"24- We stress the need to preserve Syria's unity, sovereignty, independence and territorial integrity; we strongly condemn the ongoing bloodshed in Syria and underline the Syrian Government's primary responsibility for the continued violence and destruction of property. We express grave concern over the deteriorating situation, the increasing frequency of killings, which claim the lives of thousands of unarmed civilians, and the perpetration of massacres in towns and villages by the Syrian authorities.

25- We call for the immediate cessation of violence, killings and destruction, for the respect of Islamic values, human rights, and for saving Syria from the danger of an all-out civil war, including its dangerous consequences on the Syrian people, on the region, and on international peace and security."⁴⁵⁵

Upon analysis, it is clear that these discourses do not address the issues and concerns of the Muslim community through mandatory decisions of the Member States, but they are repeated statements that no longer affect the Muslim or Arab recipient. The Secretary-General of the Arab League recognized the inability of official discourses to achieve the aspirations of Arab citizens, saying: "We all grew up on the dream of Arab unity, the unity of history and the unity of the common destiny. Today our young people feel that the Arab world did not achieve all these aspirations, and thus our blame is directed sometimes to its leaders and sometimes to the enemies' conspiracy."⁴⁵⁶ As a result, Arab citizens tired of these discourses about reforms, rights, freedom, justice and dignity. To conclude, the Islamic discourse was not independent, rather was submissive, repetitive and ineffective.

[88%D8%B1%D8%A9%20%D8%A7%D9%84%D8%B9%D8%A7%D8%AF%D9%8A%D8%A9%2025.pdf](#) (Last access January 2016).

⁴⁵⁵ Resolution No: (24-25) of the Final Statement Issued by the Organization of Islamic Cooperation at Its (12) in 6-7/ 2/2013, Held in Cairo, via: http://www.oic-oci.org/external_web/is/12/en/docs/final/is12_fc_rev2_en.pdf (Last access January 2016).

⁴⁵⁶ Speech of Dr. Nabil Al Arabi Secretary-General of the Arab League at the Summit Level the Regular Session 25, in: 25-26 /5/2014 held in Kuwait, via: <http://www.lasportal.org/ar/summits/Documents/%D9%83%D9%84%D9%85%D8%A9%20%D9%85%D8%B9%D8%A7%D9%84%D9%8A%20%D8%A7%D9%84%D8%AF%D9%83%D8%AA%D9%88%D8%B1%20%D9%86%D8%A8%D9%8A%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%20%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D9%86%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%20%D9%84%D8%AC%D8%A7%D9%85%D8%B9%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9.pdf> (Last access January 2016).

4. 1. 4. 1. 0. 2. The Turning Point of Islamic Political Discourse

Since King Salman ascended to the authority of the Saudi regime,⁴⁵⁷ Islamic discourse has changed its course towards independence and non-subordination to the wishes and interests of the greater powers. The Qatari Foreign Minister, Khalid Al Atiah, stated: "Saudi Arabia is a pillar of the Islamic world.... Saudi Arabia has the two holy mosques. If was not a moderate language coming out of Saudi Arabia today, we have 1.5 billion Muslims around the world. So we have to give Saudi Arabia the credit for keeping the train on the right track in the moderation of Islam."⁴⁵⁸ Accordingly, Islamic discourse has had more impact on issues confronting Muslim communities and the international community and has contributed to radical change in regional conflicts. This development of Islamic discourse is prominent in the Saudi discourse at international conferences, whether in the Human Rights Council or the Security Council or even in press interviews. Sequentially, a few Islamic states followed the Saudi approach in its discourses, such as the UAE, Qatar, and Turkey. Here is an example of this new discourse.

The following is a joint statement on the formation of an Islamic military alliance to fight terrorism:

- " - Based on the Lord's guidance in the Holy Quran: (And cooperate in righteousness and piety, but do not cooperate in sin and aggression), and on the teachings of the Islamic Shari'a and provisions that reject terrorism in all its forms and manifestations because it is a heinous crime and injustice rejected by all heavenly religions and human instinct.
- Since terrorism and its atrocities - which spread Shari'a-forbidden corruption and destruction in the world - constitute a serious violation of human dignity and rights, especially the right to life and the right to security, and subject the interests of countries and communities to danger and threaten their stability; and acts of corruption and terrorism cannot be justified in any way, and hence it should be fought by all means and collaboration should be made to eliminate it because this is cooperation upon righteousness and piety.
- Affirming the principles and objectives of the charter of the Organization of Islamic Cooperation, which calls for member states to cooperate to combat terrorism in all its forms and manifestations and rejects all justifications and excuses that might be offered for it.
- Achieving integration, closing ranks and uniting efforts to combat terrorism, which violates the sanctity of people's lives, threatens regional and international peace and

⁴⁵⁷ King Salman was crowned as the new King of Saudi Arabia on 23 January 2015 following King Abdullah.

⁴⁵⁸ The Qatari Foreign Minister, Khalid Al Atiah, emphasized, in Global Governance Conference Held in Léman Switzerland, that Saudi Arabia is a pillar of the Islamic world, via: <https://youtu.be/70zxZGM9IUw> (Last access January 2016).

security, poses a threat to the vital interests of a nation and undermines coexistence within it.

- Committed to the provisions contained in the United Nations' Charter, the charter of the Organization of Islamic Cooperation and other international conventions aimed at the eradication of terrorism.

- Affirming the right of states to self-defense in accordance with the purposes and principles of international law and the Charter of the United Nations and on the basis of the provisions of the OIC Convention on Combating Terrorism in all its forms and manifestations and the elimination of its objectives and its causes

- Performing the duty to protect the nation from the evils of all armed groups and terrorist organizations - whatever their doctrine or title - which spread killing and corruption in the world and are designed to terrorize innocent people."⁴⁵⁹

This discourse agreed totally with international law in its principles and its efforts, and it did not neglect the interests of the Muslim community. This speech is an ideal model of moderate discourse. It seeks expressly to eradicate terrorism, it is intended to undertake the role of the real Islamic society in the fight against terrorism, rather than its previous condition, which was marked by only implicit statements. This discourse has already taken the initiative and has made an actual direct impact on most international or regional issues.

4. 1. 4. 1. 1. The unofficial Political Discourse

The suffering of Islamic societies has increased with mounting waves of unofficial political discourse, which is often issued by extremist groups. Their discourses aim to spread extremism, militancy and hatred, and then move, as a result, to aggressive behavior in order to terrorize communities and target innocent civilians. The main objective of this discourse is to spread terror and to achieve political goals, most notably: the establishment of an independent authority, such as the Taliban and ISIS. The unofficial political discourse uses slogans and religious terminology for political purposes. The purpose of the issuance of this discourse in a religious mold is to attract the largest number of young Muslim people, who lack full knowledge of the Islam, and to include them in its ranks. This research will attempt to focus in depth this discourse in the chapter on the position of Islamic law on hate speech issued by terrorist groups claiming to be Muslims.

⁴⁵⁹ Joint Statement on the Formation of an Islamic Military Alliance to Fight Terrorism, Kingdom of Saudi Arabia - Ministry of Foreign Affairs, (2015), via: <http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/GovernmentNews/Pages/ArticleID201512159481880.aspx> (Last access January 2016).

4. 1. 4. 2. Islamic Media Discourse

Even though the mass media tends to convey stereotypical images of its society, Islamic media, including encyclopedias, magazines, journals, newspapers, television, and radio shows, publishes misinformation about Islam. Islamic media discourse in its entire visual and print formats that existed in the past, is a discourse that reveals the political orientation of the state. However, the appearance of social media communication, such as Facebook and Twitter, have enabled the individual Muslim to express political opinions on any issue rather than simply receive information. As a result, the Arab Spring was the product of speeches issued through social media. Islamic media sought to cover the events of the Arab Spring and the popular demand for political reform.⁴⁶⁰ Traditional Islamic discourse through Islamic media considers the Palestinian cause as central, but interest in it has receded with the events of the Arab Spring.⁴⁶¹ The religious issues and intellectual debates take up much of the concern of Islamic media discourse.⁴⁶² In contrast, Islamic media discourse does not consider social and economic issues as among its priorities.⁴⁶³

Islamic media discourse adopts three methods to persuade the recipient to embrace its visions and perceptions with regard to a particular issue. First, the emotional methods, which rely on addressing hearts in a dramatic way to stir feelings. Second, the logical methods, which aim to address minds and to advance logical arguments and evidence to prove that a matter is true or not. Third, the religious methods, which depend on principles, objectives, and laws of Islam to discuss a certain issue.⁴⁶⁴

⁴⁶⁰ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 93.

⁴⁶¹ Ibid, p. 94.

⁴⁶² Abdulaziz Altwaijri, Towards a Renewal of Islamic Thought, Publications of the Islamic Educational, Scientific and Cultural Organization -ISESCO-, (2014), p. 14.

⁴⁶³ Azhar Arsyad, Renewal of Islamic Media Discourse: Form, Content, and Style, The 2nd International Conference on Islamic Media, Muslim World League, (2011), p. 15. See, also, Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 95.

⁴⁶⁴ Mahmud Al Rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012), p. 106-109.

4. 2. Freedom of Expression in Traditional Islamic Perspective

4. 2. 0. The Concept of Freedom of Expression

Freedom of expression is a reoccurring theme in most constitutions of states as the essential ingredient in the free democratic basic order and in several international agreements that classify the freedom of expression as a basic human right. Although Traditional Islamic law has not provided over the past centuries a precise definition of the term 'freedom of expression' in the form of modern definitions, many texts of the primary and secondary sources of Islamic law supported the right of freedom of expression and clarify scopes, objectives and limitations of the freedom of expression.⁴⁶⁵ Moreover, the Islamic concept of freedom of expression is not limited to the concept of a fundamental human right, but, in some cases, it is a mandatory duty of every Muslim.⁴⁶⁶ Thus, Traditional Islamic law has granted, through Islam, fourteen hundred years ago, the right of freedom of expression.

The Council of the International Islamic Fiqh Academy defines freedom of expression as: "the full enjoyment of a person with the ability to express what he sees rightly and beneficial to him and the community with regard to private affairs or public issues. This right is safeguarded under the provisions of Sharia law."⁴⁶⁷ It is clear that the definition of the Fiqh Academy is ambiguous especially with regard to the question what is "the provisions of Sharia law" that this freedom should be subject to. Dr. Abdul Hakeem Hassan Al-Eili refers that "The Freedom of expression means to be a free man in the formation of his opinion without depending on others and being free to show his opinion and announcement in a manner that he deems"⁴⁶⁸. This definition does not clarify whether freedom of expression is limited or not. Moreover, Ali Muhammad Bhat sees that:

"Freedom of speech means the right of an individual to prefer the stance about certain public or private matter and express them before others devoid of delinking themselves from the society. Freedom of speech and expression is the person's right to express his

⁴⁶⁵ Mohammed Albishir, Freedom of Opinion in Islam and Legal Systems, p. 28, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First edition 2009

⁴⁶⁶ Maher Holi, Freedom of Expression and Respect of Religions and Sanctities, p.3, Islamic University in Gaza, Palestine 2008

⁴⁶⁷ Resolution 176 (2/19) on Freedom of Expression: Its Controls and Provisions, April 2009, The Council of the International Islamic Fiqh Academy, via: <http://www.iifa-aifi.org/2294.html> (Last access February 11, 2017)

⁴⁶⁸ Saeed, Riaz, The Quranic Concept of Freedom of Expression: A Descriptive Study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013, p. 72.

ideas and feelings with his own choice and will, as long as there is no aggression on the rights of others... It is a prerequisite for a Muslim under certain legal conditions, so that a person can express freely his thought and religious duty."⁴⁶⁹

This definition restricts the freedom of expression when it violates the rights of others. Although this definition is more obvious, but the issue of the restrictions contained with the words "certain legal conditions" are still vague. Thus, to find out the restrictions on freedom of expression, the relevant texts of traditional Islamic law must be deeply addressed in this chapter.

Until the image is clear about the concept of freedom of expression from Traditional Islamic perspective, it is appropriate to understand the three different forms of opinions. First one is praiseworthy. This relies on studying the Quran, Sunnah, and views of Prophet Muhammad's companions which lead, after the consultation to expressing one's opinion. Another one is blameworthy, because it seeks to express one's opinion in violation of certain laws intentionally and dishonor Allah and the Prophet Muhammad. The third category is causing doubt; this aims to create doubt in the primary sources of the Sharia, which are the Quran and the Sunnah, and that contributes to social disturbance and threatens the Supreme Islamic interests with the aim of creating dissent among the people.⁴⁷⁰

4. 2. 1. Essential Objectives of the Right of Freedom of Expression

Islamic law considers that the freedom of expression is a basic fundamental human right for two essential objectives, which are: promoting the discovery of truth and upholding human dignity.⁴⁷¹ Many texts of the primary sources clarify that the objective of disclosure of truth is the basic objective to gain the right to free expression, even if it led to self-condemnation or caused harm to one who speaks.⁴⁷² According to the Quran, God said: "O ye who believe! Fear God, and (always) say a word directed to what is most correct"⁴⁷³. Also, according to the Sunnah, the Prophet Muhammad said: "The best of jihad is a just word spoken to an unjust ruler."⁴⁷⁴ In addition, another

⁴⁶⁹ Ali Muhammad Bhat, Freedom of expression from the Islamic perspective, Journal of Media and Communication Studies, p. 72 India, 2014.

⁴⁷⁰ Kamali, Freedom of Expression in Islam, p.61 The Islamic Text Society, (1994), Kuala Lumpur. See, also, Ali Bhat, Freedom of Expression from the Islamic Perspective, Journal of Media and Communication Studies, p. 71 India, 2014.

⁴⁷¹ Nadeem Siddiq, Freedom of Conscience and Expression in Islam, The Review of Religions (2010)

⁴⁷² Abdulrahman Al-Suyuti, Durr scattered, Vol. 6, p. 667-668, Beirut: Dar al-Fikr Publication.

⁴⁷³ The Quran, verse (33:70)

⁴⁷⁴ Muhammad Ibn Yazid, Sunan ibn Majah, Vol. 5, Book 36, Hadith 4011, via: <http://sunnah.com/ibnmajah/36/86> (last access February 2016)

important objective regarding the right of the freedom of expression is to honour human beings and to protect their fundamental rights.⁴⁷⁵ Respect of the right of the freedom of expression is a type of respect, in fact, of human dignity.⁴⁷⁶ According to the Quran, God declared: "We have honoured the sons of Adam".⁴⁷⁷ Since a person's opinion expresses the essence of his personality, Islamic law holds his right to the freedom of expression in the light of the principle of human dignity. As a result, this right is given to human beings in the Islamic perspective for their dignity and respect.⁴⁷⁸ Furthermore, Islamic law emphasizes the right of freedom of speech of all Muslims and non-Muslims in the Islamic State as a basic fundamental right subject to some conditions and limitations to prevent that speech from being hostile.⁴⁷⁹

4. 2. 2. Restrictions Imposed on Freedom of Expression

To understand conditions of limitations and restrictions imposed on freedom of expression better, a comparative study is in order. As stated in the previous chapter, International and regional instruments require that the restrictions must be provided by law that based on the basis of stipulated rule, case law, and the common law. By the same token, traditional Islamic law provides certain contexts, contents, and conditions of expression that must be subject to restrictions, such as, adopting fair speaking and avoiding wrong speaking⁴⁸⁰, preventing laughing at others⁴⁸¹, prohibiting defamation and sarcasm⁴⁸², rejecting abuse directed at God and the Prophet⁴⁸³,

⁴⁷⁵ Abdullah Alturki, Human Rights in Islam, p. 26-28, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

⁴⁷⁶ Ibid

⁴⁷⁷ The Quran, verse (17:70)

⁴⁷⁸ Tahir Qadri, Human Rights in Islam, Minhaj Ul Quran Publications, Lahore, pp. 33

⁴⁷⁹ Saeed, Riaz, The Quranic Concept of Freedom of Expression: A Descriptive Study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013, p. 71.

⁴⁸⁰ Mohammed Albishir, Freedom of Opinion in Islam and Legal Systems, p. 113- 114, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009. Also, the Quranic verse (2:83) states: "speak fair to the people". The Quranic verse (22:30) states: "shun the word that is false"

⁴⁸¹ Maher Holi, Freedom of Expression and Respect of Religions and Sanctities, p. 5, Islamic University in Gaza, Palestine 2008. Also, the Quranic verse (49:11) states: "O ye who believe! Let not some men among you laugh at others: It may be that the (latter) are better than the (former): Nor let some women laugh at others: It may be that the (latter) are better than the (former)."

⁴⁸² Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 166-167, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, the Quranic verse (49:11) states: "Nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames"

⁴⁸³ Nouredine Bocardad, Freedom of Expression in Islam, The Journal of Al Bayan, Indonesia 2012. Also, the Quranic verse (33:57) states: "Those who annoy God and His Apostle - God has cursed them in this World and in the Hereafter, and has prepared for them a humiliating Punishment."

behaving well in dialogue among followers of different religions⁴⁸⁴, preventing; concealing the truth⁴⁸⁵, ascertaining the truth before making a speech⁴⁸⁶, avoiding to publish evil⁴⁸⁷, and expressing in accordance with the knowledge, not without it⁴⁸⁸.. etc. Both International and Islamic law, in the absence of this condition, move to the application of the following two conditions of restrictions on freedom of expression, which are the restrictions must be necessary and based on legitimate aim. However, International law determines the scope of necessary restrictions in case of a pressing need to limit freedom of expression and in the least restrict possibly in order to ensure not exceed this freedom to violating the rights of others. While traditional Islamic law expands on defining the scope of necessary restrictions based on a religious basis. It imposed restrictions on any expression that violates any of the five Islamic constants⁴⁸⁹, which are the Islamic belief in divinity, the Islamic belief in prophethood, the Islamic rituals of worship, the supreme moral values that determine man's relationship with others, and the definitive texts in Islamic law, irrespective of the justifications and conditions.⁴⁹⁰ The last condition of restrictions imposed on freedom of expression is a legitimate aim. International restrictions must be based on legitimate aim, such as for protection of national security, public order, public health or morals, or respect for the rights and reputations of others. Similarly, traditional Islamic law limits any expression that violated

⁴⁸⁴ Mohammed Zoheily, Religious Freedom in Islamic Sharia, Vol. 27, p. 388, Damascus Journal of Economic and Legal Sciences, The first Issue 2011. Also, the Quranic verse (29:46) states: And dispute ye not with the People of the Book, except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury)."

⁴⁸⁵ Mohammed Albishir, Freedom of Opinion in Islam and Legal Systems, p. 119, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First edition 2009. Also, the Quranic verse (2:42) states: "And cover not Truth with falsehood, nor conceal the Truth when ye know (what it is)."

⁴⁸⁶ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 174, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, the Quranic verse (49:6) states: "O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly and afterwards become full of repentance for what ye have done"

⁴⁸⁷ Abdullah Alturki, Human Rights in Islam, p. 41, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia. Also, the Quranic verse (4:148) states: "God loveth not that evil should be noised abroad in public speech, except where injustice hath been done; for God is He who heareth and knoweth all things."

⁴⁸⁸ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 164, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, the Quranic verse (17:36) states: "And pursue not that of which thou hast no knowledge; for every act of hearing, or of seeing or of (feeling in) the heart will be enquired into (on the Day of Reckoning)."

⁴⁸⁹ They will be discussed extensively later in this chapter.

⁴⁹⁰ Abdulaziz Altwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015). See, also, Bin Bayyah. Abdullah, Islamic Discourse Between The Conclusive and The Variable, Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 16-21.

fundamental human rights⁴⁹¹, which are religion, life, wealth and property, thought, and offspring in order to create the perfect life that man can live peacefully.⁴⁹² Thus, traditional Islamic law corresponds largely with international law in the conditions that must be provided to restrict freedom of expression. However, the religious nature of Islamic law has contributed to the expansion of the restrictions on the reverse of international law, which imposes restrictions in a strict manner and in line with the social need. Islamic law considers that a social need of Muslims lies in the full respect of the five Islamic constants, and not compromising them.

4. 3. Hate Speech in Traditional Islamic Perspective

4. 3. 0. Introduction

From the perspective of International and regional law, hate speech is issued by different people and in different forms in different contexts. The pervious chapter determined five criteria, which are, form, promoter, content, context, and potential impact of speech, to discuss the concept of hate speech, to identify the constraints on freedom of expression and to identify incitement to hating. In this chapter, a similar analysis will be used to determine whether traditional Islamic law put a dividing line between freedom of expression and hate speech, with taken into consideration the above three conditions for justification of imposing the restriction on freedom of expression, which are, "provided by law, must be necessary and based on the legitimate aims".

4. 3. 1. The Elements of Hate Speech

The five elements of hate speech from a traditional Islamic perspective are as follows:

4. 3. 1. 0. The Form of Hate Speech

The International law, as mentioned in the previous chapter, indicated the form of expression does not confine to the form of the direct speech, but includes all acts that constitutes incitement to discrimination, hostility or violence, such as promoting, supporting, publishing, distributing, or establishing organizations, and participating in such organizations or activities. Under traditional Islamic law, the form of speech is divided into two types namely, "sayings, and acts". First, the form of sayings covers any expression that comes in direct speech, statements,

⁴⁹¹ They will be discussed extensively later in this chapter.

⁴⁹² Abdulkareem Zidan, *Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh)*, p. 378, 6th Edition, Cordoba Corporation, Saudi Arabia (1976)

declarations, advertisements, rumors, chants, articles, books, messages, publications, audio material, fatwas, e-mail messages, promotion of materials, cartoons, or in any of the forms of modern expression.⁴⁹³ This is understood from the general thrust of Quranic texts, such as: "speak fairly to the people"⁴⁹⁴, and "shun the word that is false"⁴⁹⁵. With the words "speak" and "the word" in these verses, it is clear that Islamic law does not confine to the form of the direct speech, but include any form of words. Second, the form of acts includes any action that supports hate speech, whether in the form of public support, justification, publishing, helping to spread hate speech, such as creating the suitable atmosphere for promoting this speech through holding or participating in meetings or conferences that use hate speech, or by providing financial support to it, sponsoring it, or protecting it.⁴⁹⁶ This concept includes all the procedures and facilities that publicly or secretly support this speech.⁴⁹⁷ Also, the official and legal entities' adoption of a neutral stance towards this speech is an act of implicit support that falls within the concept of "act," with the exception of the ordinary or unofficial groups' stance of full neutrality, which is not considered an act of supporting hate speech. This is because the individual or the unofficial entity does not have the power, while silence and neutrality do not indicate approval of that speech in the absence of public support or engagement with the promoters of these types of speech. All of these actions above are derived from the concept of "cooperating in sin and aggression" contained in the Quranic verse that states: "And cooperate in righteousness and piety, but do not cooperate in sin and aggression"⁴⁹⁸. Thus, traditional Islamic law considers "any word or act" as a form of hate speech in case of the content and context of expression were calling to hatred. In fact, this element is not important in determining hate speech accurately, but addressing it here in order to be clear that there are no exceptions regarding the form of hate speech.

⁴⁹³ Maher Holi, *Freedom of Expression and Respect of Religions and Sanctities*, p. 8, Islamic University in Gaza, Palestine 2008.

⁴⁹⁴ The Quran, verse (2:83)

⁴⁹⁵ The Quran, verse (22:30)

⁴⁹⁶ Kamal Muhammad, *The Provisions in Participating in the Crime from the Islamic Jurisprudence*, p. 28-37, An-Najah National University, Palestine 2010

⁴⁹⁷ Maher Holi, *Freedom of Expression and Respect of Religions and Sanctities*, p. 8, Islamic University in Gaza, Palestine 2008.

⁴⁹⁸ The Quran, verse (5:2)

4. 3. 1. 1. The Promoter of Hate Speech

Traditional Islamic law does not differentiate between the individual and the group in the penalty due.⁴⁹⁹ The whole group will be punished if they committed a crime against a single person.⁵⁰⁰ Accordingly, the promoter of the speech is any individual or group by any means, including, traditional direct speech, through the media such as "newspapers, television, magazines, or radio," or through the internet, "web sites or social networking sites," or through any traditional or modern method.⁵⁰¹ In addition, the promoter of the speech, whether individuals or groups do not necessarily have to have an audience whom they can influence, such as political parties or organizations, or prominent members of them, and the individual does not have to be an employee where the nature of his job requires dealing with large segments of the public, such as media people, journalists, celebrities of social media, or teachers who have a large segment of people taking instruction from them.⁵⁰² Briefly, the effect element is not a requirement that must be present in the promoter of the speech, whether an individual or a group. To be considered a promoter of hate speech, promoting this speech is enough without consideration of the extent of influence, because hatred and incitement speech is an independent crime punishable by law, as will be addressed extensively later when discussing the element of intent and direct relation between the speech and the threat to the rights of others in the light of Islamic law. Therefore, the promoter of hate speech includes "any individual or group" with an official capacity, any ordinary person or an unofficial group.

4. 3. 1. 2. The Content of Hate Speech

International law, as mentioned previously, refers to the content of expression being prohibited by law if it violates one of the following areas: national, racial, or religious origin, race, color, religion, language, human dignity, and human rights. From traditional Islamic perspective, the

⁴⁹⁹ Kamal Muhammad, *The Provisions in Participating in the Crime from the Islamic Jurisprudence*, p. 116, An-Najah National University, Palestine 2010

⁵⁰⁰ Hassan Shathly, *Felonies in Islamic Jurisprudence; Comparative Study between Islamic Jurisprudence and law*, p. 212, University Book House, Riyadh, Saudi Arabia.

⁵⁰¹ Maher Holi, *Freedom of Expression and Respect of Religions and Sanctities*, p. 8, Islamic University in Gaza, Palestine 2008.

⁵⁰² Abdul Qadir Odeh, *Comparison between the Islamic criminal law and Positive law*, Vol. 1, p. 367-377, Lebnon, Beirut: Dar Al Arab Book for Publishing and Printing. See, also, Mohammed Zoheily, *Religious Freedom in Islamic Sharia*, Vol. 27, p. 394, Damascus Journal of Economic and Legal Sciences, The First Issue 2011.

content of the speech refers to the areas covered by the speech. For the expression to be classified as "hate speech," it has to violate one of the following areas:

4. 3. 1. 2. 0. Violation of One of the Five Islamic Constants

An expression is classified as hate speech when it violates one of the five constants through the use of one of the contexts that will be addressed under the next element. Islamic law criminalizes any expression that violates any of the five constants, which are the Islamic belief in divinity, the Islamic belief in prophethood, the Islamic rituals of worship, the supreme moral values that determine man's relationship with others, and the definitive texts in Islamic law, irrespective of the justifications and conditions.⁵⁰³ The topics that fall under the five constants are as follows:

4. 3. 1. 2. 0. 0. Abusive Speech against the Divine Entity

Any word or expression intended to ridicule, insult, or depreciate the Divine Entity is unacceptable and criminalized under Islamic law. This includes offending God and every misuse of God's Word, which is the Quran.⁵⁰⁴ According to the Holy Quran: "Those who annoy God and His Apostle - God has cursed them in this World and in the Hereafter, and has prepared for them a humiliating Punishment."⁵⁰⁵ The Quranic text stressed that any abuse to God, whether by words or deeds, is forbidden and unacceptable. Insults, ridicule, and cursing are all classified as abuse of God. Consensus also considered that abusive speech against the Divine Entity is forbidden and rejected.⁵⁰⁶ Ibn Hazm said, "As for insulting God, no Muslim on earth disagrees that it is plain apostasy."⁵⁰⁷

As for punishment of the speech that is abusive of the Divine Entity, Ibn Othaimen sees that Muslim scholars disagreed on the punishment of the citizen who insults God in the Islamic

⁵⁰³ Abdulaziz Altwaijri, *Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow* (2004), via: <http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015). See, also, Bin Bayyah, Abdullah, *Islamic Discourse Between The Conclusive and The Variable*, Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 16-21.

⁵⁰⁴ Ibn Hazm, *Book of Al-Mahalla*, Beirut: Dar al-Fikr Publication, Vol. 11, p. 41, via: <http://islamport.com/w/fqh/Web/862/3509.htm> (Last access 7/14/2016)

⁵⁰⁵ The Quran, verse (33:57).

⁵⁰⁶ Mohammed Albishir, *Freedom of Opinion in Islam and Legal Systems*, p. 107- 110, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009.

⁵⁰⁷ Ibn Hazm, *Book of Al-Mahalla*, Beirut: Dar al-Fikr Publication, Vol. 11, p. 41, via: <http://islamport.com/w/fqh/Web/862/3509.htm> (Last access 7/14/2016)

state, whether Muslim or non-Muslim. Some Muslim scholars believe that the punishment should be death and that repentance and reversal of the offensive speech are not accepted. While others believe that if a person repents and takes back his offensive speech, so that his sincerity in magnifying God is demonstrated, he should not be killed as a result of publicizing the evidence proving the acceptance of his repentance.⁵⁰⁸ Insults to God that are criminalized under Islamic law include insulting angels, prophets, or holy books, because belief in them is a prerequisite for the perfect belief in God.⁵⁰⁹ According to the Holy Quran, God said: "The Apostle believeth in what hath been revealed to him from his Lord, as do the men of faith. Each one (of them) believeth in God, His angels, His books, and His apostles. We make no distinction (they say) between one and another of His apostles."⁵¹⁰ All Islamic legal schools agree that insulting, ridiculing, or denying angels, messengers, or holy books in any abusive form of expression such as speech, statements, articles, or cartoons is criminalized and unacceptable under Islamic law.⁵¹¹

4. 3. 1. 2. 0. 1. Abusive Speech against the Prophet Muhammad (peace be upon him)

Abusive speeches against the Prophet, PBUH, can be classified into the following types:

4. 3. 1. 2. 0. 1. 0. Abusive Speech against the Prophet, (peace be upon him), Himself

According to the Holy Quran, God said; "If thou dost question them, they declare (with emphasis): "We were only talking idly and in play." Say: "Was it at God, and His Signs, and His Apostle that ye were mocking? Make ye no excuses: ye have rejected Faith after ye had accepted it."⁵¹² Also, God said: "Those who annoy God and His Apostle - God has cursed them in this World and in the Hereafter, and has prepared for them a humiliating Punishment."⁵¹³

⁵⁰⁸ Ibn Othaimeen, Total Opinions and Messages of Sheikh Ibn Othaimeen, Vol. 2, p. 150, Dar al- Watan & Dar Al- Thuraya Publication, Riyadh, Saudi Arabia, 1993

⁵⁰⁹ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 167, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, See Maher Holi, Freedom of Expression and Respect of Religions and Sanctities, p. 5, Islamic University in Gaza, Palestine 2008.

⁵¹⁰ The Quran, verse (2:285).

⁵¹¹ The Kuwaiti Encyclopedia of Jurisprudence, Vol. 22, p.210, Dar That Al-Salasil Publication, Kuwait, Second Edition, via: <http://shamela.ws/browse.php/book-11430#page-13567> (Last access 7/14/2016). See, also, Al- Qadi Iyad al- Yahsubi,: Healing through Defining the Rights of Prophet Muhammad, Beirut: Dar al-Fikr Publication, 2002, p. 595-597. See, Muhammad Harb, Ibn Taymiyyah and His Position on the most Important Groups and Beliefs in His Era, Beirut -Lebanon: Alam Al Kotob Publication, First Edition, 1987, p. 396

⁵¹² The Quran, verse (9:65-66).

⁵¹³ The Quran, verse (33:57).

The Quranic texts are explicit in criminalizing the ridicule or abuse of the Prophet, peace be upon him, in any form of words and deeds.⁵¹⁴ Anyone who insults the Prophet, peace be upon him, dishonors him, attributes to him a defect related to himself, his ancestry, religion, or one of his attributes; hints at him; or likens him to something as a kind of insult or disrespect towards him; depreciates him; or attributes a flaw to him is abusive of the Prophet, peace be upon him, whether this is explicit or implicit.⁵¹⁵ Also, if anyone curses him, imprecates him, wishes him evil, lies upon him, or scoffs at the misfortune that befell him, all of that would be abusive speech against the Prophet, peace be upon him.⁵¹⁶ The consensus of scholars, imams of fatwas, and the opinions of the Companions were on the prohibition of all the forms of abuse listed above.⁵¹⁷

As for the punishment of the promoter of abusive speech against the Prophet, peace be upon him, Ibn Othaimeen sees that the scholars unanimously agreed on killing the person who insults the Prophet, peace be upon him, even if his repentance is accepted, as opposed to a person who insults Allah. This is because Allah accepted the repentance for all sins, including insulting Allah Himself, but with respect to the rights of human beings, they are based on the person's relinquishment of his right, and the Prophet, peace be upon him, is a human being. So, on one is entitled to relinquish his right. The prophet is dead, and hence, the punishment is death, even if the abuser repents and takes back what he said.⁵¹⁸

4. 3. 1. 2. 0. 1. 1. Abusive Speech against the Prophet's Wives, Family, and Relatives

The abuse of the wives of the Prophet Muhammad, peace be upon him, or any member of his family is an abuse of the Prophet, peace be upon him, and a slander against him. Any abusive speech towards the wives of the Prophet, peace be upon him, and his family and relatives is criminalized under Islamic law. According to the Sunnah: Aisha, may Allah be pleased with her, said: "So Allah's messenger got up (and addressed) the people and asked for somebody who would

⁵¹⁴ Mohsen Kadivar, *Apostasy, Blasphemy, & Religious Freedom in Islam*, p. 323, Publisher: Official Website of Mohsen Kadivar 2014

⁵¹⁵ Al- Qadi Iyad al- Yahsubi, *Ash- Shifa: Healing through Defining the Rights of Prophet Muhammad*, Beirut: Dar al-Fikr Publication, 2002, p. 541.

⁵¹⁶ Mohammed Albishir, *Freedom of Opinion in Islam and Legal Systems*, p. 92, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009.

⁵¹⁷ Al- Qadi Iyad al- Yahsubi, *Ash- Shifa: Healing through Defining the Rights of Prophet Muhammad*, Beirut: Dar al-Fikr Publication, 2002, p. 541.

⁵¹⁸ Ibn Othaimeen, *Total Opinions and Messages of Sheikh Ibn Othaimeen*, Vol. 2, p. 150, Dar al- Watan & Dar Al- Thuraya Publication, Riyadh, Saudi Arabia, 1993.

take revenge on 'Ab- dullah bin Ubai bin Salul. Then. Allah's Apostle, while on the pulpit, said, "O Muslims! Who will help me against a man who has hurt me by slandering my family? By Allah, I know nothing except good about my family" ⁵¹⁹

This verse is explicit in rejecting the abuse, in any form of words and deeds, of the wives of the Prophet, peace be upon him, and his family and relatives. The Prophet, peace be upon him, also said to his uncle Abbas when he complained to him of his people's estrangement, "By Him in Whose Hand my soul is, they will not enter Paradise until they love you for my sake."⁵²⁰ In addition to the foregoing, the wives of the Prophet, peace be upon him, and his family and relatives also are classified as companions.⁵²¹ Therefore, all the provisions of the Islamic law concerning the criminalization of insulting the prophet are applied to anyone who insults them as will appear in the next section.

4. 3. 1. 2. 0. 1. 2. Abusive Speech against the Companions of the Prophet (peace be upon him)

Because the companions are the ones who conveyed the religion to the successive generations, insulting, ridiculing, or disbelieving them is in fact an insult to the Prophet (peace be upon him) and to the Islamic religion with all its fundamentals and branches, which leads to questioning the Quran.⁵²² According to the Sunnah, the Prophet Muhammad, peace be upon him, said: "Do not revile my Companions." ⁵²³ The punishment of the those that abuse the companions' varies depending on the context and the manner of the abuse, and so the punishment is ta'zir which is according to the discretion of the court.⁵²⁴

⁵¹⁹ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 720, Vol. 2, (Muhammad Muhsin Khan trans.,) Published by: DARUSSALAM, Riyadh, 1997. See, also, Imam Muslim, Sahih Muslim, Hadith Number. 274, Vol. 6, (Abdul Hamid Siddiqui trans.,), New Delhi: Kitab Bhavan, 2000.

⁵²⁰ Ahmed bin Hanbal, The Virtues of the Companions, Vol. 2, p. 918, Alresalah Foundation - Beirut, 1983

⁵²¹ Ibid

⁵²² Ismail Basri, The Relentless Motivation to Shorten Hadith Studies "Albaeith Alhathith", p. 205, Dar Al-Kotob Al-Ilmiyah - Beirut for Publication, Lebanon- Beirut.

⁵²³ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 720, Vol. 2, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997. See, also, Imam Muslim, Sahih Muslim, Hadith Number. 1082, Vol. 2, (Abdul Hamid Siddiqui trans.,), New Delhi: Kitab Bhavan, 2000.

⁵²⁴ Taqi al-Din al-Hanbali, The Strict Sword on the Insulter of the Prophet "Al Sarem Al Maslul Ala Shatim Alrasool", p. 571-589, Publisher: Saudi Arabian National Guard, Saudi Arabia

Although the Islamic religion prohibits insulting or abusive speech against the companions and wives of the Prophet, but it does not prevent criticism them through a scientific and objective logic, as will be mentioned later in the chapter (freedom of criticism). Reasons for the criminalization of insulting the companions of Prophet Muhammad, including his wives, family, and relatives, as follow:

- a. Insulting the companions is contrary to the commendation they receive in the Quran and Sunnah.⁵²⁵ Allah says, "God's Good Pleasure was on the Believers when they swore Fealty to thee under the Tree."⁵²⁶
- b. God has declared that He is pleased with the companions who pledged allegiance to the Prophet, peace be upon him. Anyone who insults the companions in fact challenges the Quranic text and denies it, and even refutes it.⁵²⁷
- c. Insulting the companions is an offence to the Prophet, peace be upon him, because he is the one who taught them and brought them up, and even praised them and made them trustees to spread his message.⁵²⁸

4. 3. 1. 2. 0. 2. Abusive Speech against the Islamic Religion or the Rites of Worship

Islamic law criminalizes all forms of speech that are aimed to mock and ridicule in any way the rites of worship, or that are intended to insult the Islamic religion through any form of expression.

4. 3. 1. 2. 0. 2. 0. Forms of violation against the Islamic Religion or the Rites of Worship

4. 3. 1. 2. 0. 2. 0. 0. Abusive Speech against the Quran

Hate speech against the Quran through mocking it, insulting it, denying it, using any bad description to describe it, or mocking or ridiculing reciting the Quran, even if for pranks and

⁵²⁵ Ismail Ibn Kathir, *The Beginning and the End*, Vol. 5, p. 252, Dar Al-maaref Library for Publishing & Printing - Beirut, 1991

⁵²⁶ The Quran, verse (48:18).

⁵²⁷ Taqi al-Din al-Hanbali, *The Strict Sword on the Insulter of the Prophet "Al Sarem Al Maslul Ala Shatim Alrasool"*, p. 572-573, Publisher: Saudi Arabian National Guard, Saudi Arabia

⁵²⁸ Ibid

humor, because this speech is criminalized under Islamic law, and removes the one who says it out of Islam.⁵²⁹ According to the Sunnah:

Abdullah bin Omar said: A man in the Battle of Tabuk said in a gathering: I have never seen such as these of our reciters. Their stomachs are the most desirous and their tongues are the most deceitful, and they are the most cowardice when the battles start. Then, a man said to him: You are lying, you are a hypocrite. I will surely tell the Messenger of Allah; peace be upon him. The news reached the Messenger of Allah about him, and the Quran descended. Abdullah bin Omar said: I saw him hanging with the belt of the she-camel of the Messenger of Allah, peace be upon him, and the stones pelting him, while he was saying: "O Messenger of God, but we were only talking idly and joking," and the Prophet, peace be upon him said "Was it at God, and His Signs, and His Apostle, that ye were mocking?"⁵³⁰

This story was the reason for the revelation of the following Quranic verse that stated: "If thou dost question them, they declare (with emphasis): 'We were only talking idly and in play.' Say: 'Was it at God, and His Signs, and His Apostle, that ye were mocking? Make ye no excuses: ye have rejected Faith after ye had accepted it.'"⁵³¹

The preceding provisions apply to everyone who mocks the Sunnah of the Prophet in any way, because Allah considers it revelation like the Quran; Allah said describing the Prophet: "Nor does he say (aught) of (his own) Desire. It is no less than inspiration sent down to him."⁵³²

4. 3. 1. 2. 0. 2. 0. 1. Abusive Speech against those who are devout to the Islamic religion

Any form of hate speech directed at those who are devout to Islam, as this hate speech against such people because of their adherence to their religion, is hateful of Islam whose qualities are what characterize them, and hence, the mockery or ridicule of them is (in turn) mockery of the Islamic methodology that they follow.⁵³³ According to the Holy Quran:

⁵²⁹ Al- Qadi Iyad al- Yahsubi, Ash- Shifa: Healing through Defining the Rights of Prophet Muhammad, Beirut: Dar al-Fikr Publication, 2002, p. 533.

⁵³⁰ Muhammad Al-Tabari, The Commentary On the Quran, Hajr Publishing & Distribution, First Edition, Egypt- Cairo, 2001, Vol. 11, p. 544

⁵³¹ The Quran, verse (9:65-66).

⁵³² The Quran, verse (53:3-4).

⁵³³ Ibn Othaimeen, Total Opinions and Messages of Sheikh Ibn Othaimeen, Vol. 2, p. 157, Dar al- Watan & Dar Al- Thuraya Publication, Riyadh, Saudi Arabia, 1993

"Those who slander such of the believers as give themselves freely to (deeds of) charity, as well as such as can find nothing to give except the fruits of their labour,- and throw ridicule on them,- God will throw back their ridicule on them: and they shall have a grievous penalty." ⁵³⁴

So, mocking Muslims on the basis of their adherence to the Sharia is mockery of religion, and apostasy that expels one from the fold of Islam.⁵³⁵ The provisions and evidence of hate speech against devout Muslims apply to every speech of mockery and ridicule directed to those with beards, to the one who wears garments above his heels, or to the hijab.⁵³⁶ However, if mocking a Muslim is not based on religion but on a personal level or a personal dispute, then it is not apostasy. Every case has a special ruling according to the view of the judge, but such speech is also considered unacceptable. It is worth mentioning that the punishment of such speech is based on intent, unlike the speech mocking the Quran where intent is not taken into account, and the speech is considered forbidden, and removes the one who says it from the fold of Islam. If this is meant to ridicule a Muslim man or woman for what he or she does, it removes the person out of the fold of Islam. If the person meant to ridicule the person himself for personal motives, he would not be categorized as out of the fold of Islam, rather he would be punished according to the judge's discretion.⁵³⁷

4. 3. 1. 2. 0. 3. The Speech that Violates the Islamic Supreme Moral Values

Any expression, whether rhetorical, written, or explicit, by an individual or a group is unacceptable under Islamic law if it violates one of the Islamic moral values, including honesty, respecting others and not ridiculing them, and good behavior in calling for religion and in dialogues with non-Muslims.

Lying or unjust talk is forbidden under Islamic law and cannot be allowed under any justification or influence.⁵³⁸ To maintain the virtue of honesty, Islamic law prohibits spreading

⁵³⁴ The Quran, verse (9:79).

⁵³⁵ Ibn Othaimeen, Total Opinions and Messages of Sheikh Ibn Othaimeen, Vol. 2, p. 157, Dar al- Watan & Dar Al- Thuraya Publication, Riyadh, Saudi Arabia, 1993.

⁵³⁶ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 166- 167, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁵³⁷ Ibn Othaimeen, Total Opinions and Messages of Sheikh Ibn Othaimeen, Vol. 2, p. 157, Dar al- Watan & Dar Al- Thuraya Publication, Riyadh, Saudi Arabia, 1993.

⁵³⁸ Mohammed Albishir, Freedom of Opinion in Islam and Legal Systems, p. 113- 114, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009. Also,

rumors and necessitates verifying before spreading any news because the lack of credibility in expression may cause a lot of damage to the community, including the spread of hatred based on spreading false information.⁵³⁹ In order to maintain the virtue of honesty, Islamic law rejects any expression that arises from ignorance and lack of full understanding of the truth of the matter that is the subject at hand.⁵⁴⁰ Moreover, Islamic law considers hiding the truth a kind of lying.⁵⁴¹

In addition, Islamic law prohibits any speech that is intended to make fun of others for any reason whatsoever, because the rights of others are respected under Islamic law, and all forms of ridicule are excluded from freedom of expression.⁵⁴² According to the Quran, God said: "O ye who believe! Let not some men among you laugh at others: It may be that the (latter) are better than the (former): Nor let some women laugh at others: It may be that the (latter) are better than the (former)."⁵⁴³ He, also, said; "Nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames."⁵⁴⁴

Furthermore, Islamic law criminalizes any speech that is not committed to good behavior in the discourse of calling to God or in the discussions and dialogues with the followers of different religions, because this criminalization ensures proper co-existence and the renunciation of hatred and violence against anyone who is different, whether Muslim or non-Muslim.⁵⁴⁵ According to the Holy Quran, God said; "Invite (all) to the Way of thy Lord with wisdom and beautiful preaching;

according to the Quran, the verse (33:70) states: "O ye who believe! Fear God, and (always) say a word directed to the Right." Also, the verse (22:30) states: "Shun the word that is false."

⁵³⁹ Firas Abdul Jalil, *Freedom of Expression in the Holy Quran*, p. 174, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, according to the Quran, the verse (49:6) states: "O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest y harm people unwittingly and afterwards become full of repentance for what ye have done."

⁵⁴⁰ Khan, Shafique, *Freedom of Thought and Islam*, Royal Book Company, Karachi, 1989, p. 1 Also, according to the Quran: the verse (17:36) states: "And pursue not that of which thou hast no knowledge."

⁵⁴¹ Nouredine Bocardad, *Freedom of Expression in Islam*, The Journal of Al Bayan, Indonesia 2012, according to the Quran, the verse (2:42) states: "And cover not Truth with falsehood, nor conceal the Truth when ye know (what it is)."

⁵⁴² Saeed, Riaz, *The Quranic Concept of Freedom of Expression: A Descriptive Study in Modern Socio-Political Perspective*, University of the Punjab, Lahore, Al-Qalam June 2013, p. 81-85.

⁵⁴³ The Quran, verse (49:11).

⁵⁴⁴ The Quran, verse (49:11).

⁵⁴⁵ Maher Holi, *Freedom of Expression and Respect of Religions and Sanctities*, p. 5- 8, Islamic University in Gaza, Palestine 2008. See, also, Abdullah Alturki, *Human Rights in Islam*, p. 15-25, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

and argue with them in ways that are best and most gracious." ⁵⁴⁶ Also, another verse stated: "And dispute ye not with the people of book, except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury)." ⁵⁴⁷

4. 3. 1. 2. 0. 4. The Speech that is Distrustful of the Definitive Islamic Texts

Any speech by a Muslim that distrusts a definitive text in Islam is considered unacceptable under Islamic law. ⁵⁴⁸ The major definitive texts in Islam are those related to the issues of belief, and they have three categories:

First one is the definitive texts relating to Affirmation of the unadulterated unity of God. According to the Holy Quran, the verse stated: "Say: Truly, my prayer and my service of sacrifice, my life and my death, are (all) for God, the Cherisher of the Worlds: No partner hath He: thus am I commanded, and I am the first of those who bow to His will." ⁵⁴⁹ Affirmation of the unadulterated must include "such related matters as the attributes of Allah with regard to His omnipotence, divine decree, omniscience, mercy, granting of sustenance, creation, beneficence, bringing of adversity, and so forth... Belief in Allah necessitates belief in the major pillars of Islam that have been transmitted with such frequency as to be prominent, such as prayer, zakah, fasting, and pilgrimage." ⁵⁵⁰ Thus, any distrust in the Oneness of God in any form of expression by a Muslim is a kind of hate speech that is criminalized under Islamic law because the Oneness of Allah is the basis of belief, and so distrust of it is forbidden under any pretext.

The second category is the definitive texts relating to Prophethood and the phenomenon of revelation. ⁵⁵¹ According to the Holy Quran, God said: "Muhammad is the apostle of God." ⁵⁵² He, also, said: "Nor does he say (aught) of (his own) Desire. It is no less than inspiration sent down to him." ⁵⁵³ As well as, another verse states: "We have sent thee inspiration, as We sent it to Noah and

⁵⁴⁶ The Quran, verse (16:125).

⁵⁴⁷ The Quran, verse (29:46).

⁵⁴⁸ Mohammed Zoheily, Religious Freedom in Islamic Sharia, Vol. 27, p. 397-398, Damascus Journal of Economic and Legal Sciences, the First Issue 2011.

⁵⁴⁹ The Quran, verse (6:162-163).

⁵⁵⁰ Bin Bayyah. Abdullah, Islamic Discourse Between The Conclusive and The Variable. Abu Dhabi, UAE: Tabah Papers Series, September 2009, p. 16-18

⁵⁵¹ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 167, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁵⁵² The Quran, verse (48:29).

⁵⁵³ The Quran, verse (53:3-4).

the Messengers after him: we sent inspiration to Abraham, Isma'il, Isaac, Jacob and the Tribes, to Jesus, Job, Jonah, Aaron, and Solomon."⁵⁵⁴ Hence, the belief in prophethood is every Muslim's duty as it is established by definitive texts, and that "requires belief in the phenomenon of revelation, which is a divine connection and contact with mankind chosen to receive knowledge of truths and to receive a message to be conveyed to humanity, this being the objective of the Creator with respect to creation."⁵⁵⁵ Thus, any speech by a Muslim that denies or distrusts the phenomenon of prophecy and revelation is rejected and unacceptable because, in fact, it refuses a definitive text that is the basis and an integral part of the religious belief of a Muslim.

The third category is: The definitive texts relating to affirmation of the resurrection and the hereafter.⁵⁵⁶ The Holy Quran affirms belief in the Hereafter, as shown in the next two verses:

"Those who establish regular Prayer, and give regular Charity, and have (in their hearts) the assurance of the Hereafter."⁵⁵⁷

"The Unbelievers think that they will not be raised up (for Judgment). Say: (Yea, By my Lord, Ye shall surely be raised up: then shall ye be told (the truth) of all that ye did. And that is easy for God.)"⁵⁵⁸

Thus, a Muslim's speech that distrusts or ridicules the doctrine of the other day and resurrection is unacceptable in the perspective of Islamic law because it is one of the fundamental pillars of belief in Islam.

4. 3. 1. 2. 1. Violation of Divinely-Revealed Religions

Islamic law emphasizes the principle of freedom of religion in many legal texts. According to the Quran, God said "Let there be no compulsion in religion."⁵⁵⁹ This text proves that the Islamic law does not force anyone to embrace Islam.⁵⁶⁰ In another Quranic verse, God said: "To you your

⁵⁵⁴ The Quran, verse (4:163).

⁵⁵⁵ Bin Bayyah. Abdullah, *Islamic Discourse Between The Conclusive and The Variable*, Abu Dhabi, UAE: Tabah Papers Series, September 2009, p.18

⁵⁵⁶ Ibid

⁵⁵⁷ The Quran, verse (31:4).

⁵⁵⁸ The Quran, verse (64:7).

⁵⁵⁹ The Quran, verse (2:256).

⁵⁶⁰ Al Qutb Tablyah, *Islam and Human Rights*, p. 66-71, Dar Arab Thought for Printing, Publishing and Distribution, Second Edition 1984, Cairo.

religion, and to me my Religion.”⁵⁶¹ In this text, God ordered His Prophet to tell non-Muslims that he has the right to stick with his religion and in return they have the right to stick with their religion, and this text supports peaceful coexistence.⁵⁶² The meaning is implied in what was stated in the first treaty in Islam that guaranteed freedom of religion as it stipulated that: "Jews were recognized as a separate community allied to the Muslim Umma."⁵⁶³ Moreover, Islamic law considered any contempt of religions or their followers an insult that is forbidden and unacceptable.⁵⁶⁴ According to the Quran, God said: "Revile not ye those whom they call upon besides God, lest they out of spite revile God in their ignorance.”⁵⁶⁵ Therefore, according to Islamic law, everyone has the right to believe that his religion is the only true religion, but has no right to convert this belief to speech or statements that call for contempt or ridicule of other religions. Whether the provisions of apostasy in Islamic law contradict freedom of belief or not. The term apostasy refers to leaving Islam for another religion, or to be without a religion.⁵⁶⁶ The provisions of apostasy do not contradict freedom of belief because if a person wants to embrace Islam, he must be fully aware of all the provisions of Islam, including the provisions of apostasy from Islam. With the full knowledge of Islam and its provisions and then embracing it according to this complete knowledge, he is not given the right to leave Islam. Also, moving between religions leads to manipulating beliefs and swinging from one doctrine to another according to whims and desires.⁵⁶⁷

4. 3. 1. 2. 2. Violation the Principles of Islamic Justice and Equality

The concept of equality in the perspective of Islamic law differs significantly from the concept of equality in the perspective of international law and some other special legislations, and because of this difference, this section will outline areas of equality or non-equality in the following points:

⁵⁶¹ The Quran, verse (109:6).

⁵⁶² Mohammed Khader, *Freedom in Islam*, p. 63- 65, Dar Al Eatsam for Printing, Publishing and Distribution, Egypt-Cairo

⁵⁶³ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised Third Edition (2005), New York, p. 9. See also Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, p. 53, Center of Islamic Research and Studies, Iraq, Baghdad, (2008)

⁵⁶⁴ Nouredine Bocardad, *Freedom of Expression in Islam*, *The Journal of Al Bayan*, Indonesia 2012.

⁵⁶⁵ The Quran, verse (6:108).

⁵⁶⁶ Mohammed Zoheily, *Religious freedom in Islamic Sharia*, Vol. 27, p. 402-406, *Damascus Journal of Economic and Legal Sciences*, The First Issue 2011.

⁵⁶⁷ Nabil Kerkor, *Freedom of Belief and the Rule of Apostasy in Islamic Law*, p. 262 -264, *Legal Forum Magazine*, Issue 5, University of Biskra Repository.

4. 3. 1. 2. 2. 0. All Muslims and Non-Muslim Citizens Are Equal before the Islamic Courts.

Traditional Islamic law guarantees both Muslim and non-Muslim citizens the right to equality in habeas corpus. Islamic judiciary does not distinguish the ruler from the ruled, the rich from the poor, the noble from the ignoble, the woman from the man, or the Muslim from the infidel.⁵⁶⁸ According to the Holy Quran, God said: "And let not the hatred of others make you swerve towards wrong and depart from justice. Be just: that is closer to piety."⁵⁶⁹ In the Islamic judiciary, both justice between opponents, and decisions that are according to evidence and not according to the judge's knowledge of the state of any of the opponents, are the fundamental basis of the principle of equality.⁵⁷⁰

According to the Sunnah: Aisha, may Allah be pleased with her, said that the tribe of Quraish were worried about the Makhzumiya woman. They said. "Nobody dare speak to him (i.e. the Prophet) except Usama bin Zaid as he is the most beloved to Allah's Apostle." Aisha said, "A woman from Bani Makhzumiya (an ancient Arab tribe) committed a theft and the people said, 'Who can intercede with the Prophet for her?' So nobody dared speak to him (i.e., the Prophet) but Usama bin Zaid spoke to him. The Prophet said, 'If a reputable man amongst the children of Bani Israel committed a theft, they used to forgive him, but if a poor man committed a theft, they would cut his hand. Indeed I would cut even the hand of Fatima (i.e., the daughter of the Prophet) if she committed theft.'⁵⁷¹ Hence, the Prophet Muhammad, peace be upon him, refused to discriminate among Muslims in the implementation of the provisions of the Islamic judiciary on the grounds that the convict belongs to a famous tribe. Prophet Muhammad, peace be upon him, even said that if his daughter committed a sin, the rule of law would apply to her; there is no discrimination in the Islamic judiciary based on race, gender, or social status. According to the Sunnah, The Prophet Muhammad said: "If anyone wrongs a man with whom he has a contract, or diminishes his right, or forces him to work beyond his capacity, or takes from him anything without his consent, I shall

⁵⁶⁸ Mohammed Khader, *Freedom in Islam*, p. 27-30, Dar Al-Eatsam for Printing, Publishing and Distribution, Egypt-Cairo

⁵⁶⁹ The Quran, verse (5:9).

⁵⁷⁰ Hassan Al-Sheikh, *Deriving the Saudi Judicial System from Judicial Principles of the Islamic Sharia*, p. 28. via: www.saaaid.net/book/8/1627.doc (Last access July 14, 2016)

⁵⁷¹ Imam Al-Bukhari, *Sahih Al-Bukhari*, Hadith Number. 79, Vol. 5, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

plead for him on the Day of Judgment."⁵⁷² Thus, everyone has the right to appear before the Islamic judiciary, and all judicial procedures and rights are guaranteed to everyone. Equality before the Islamic Judiciary means the implementation of court decisions relating to the rights and duties of everybody, without discrimination between people on any basis, whether it be race, color, ethnicity, religion, or gender.⁵⁷³

4. 3. 1. 2. 2. 1. Discrimination, Based on Equality, Between Men and Women in Certain Cases.

Discrimination between men and women is not based on gender discrimination but on justice. Islamic law does not consider equality of rights in an absolute sense because it did not assign duties equally. It considers justice the basis of giving rights.⁵⁷⁴ For example:

4. 3. 1. 2. 2. 1. 0. The Rights of Men and Women in Marriage

Islam evaluated the marital bond, organized family life, and granted rights according to several factors. Marriages are not entered into without the consent of the man and woman, and requires the supervision of a guardian (the girl's father, brother, or uncle) and the presence of witnesses: two men, or a man and two women.⁵⁷⁵ According to the Sunnah: "Ibn Abbas (Allah be pleased with them) reported Allah's Messenger (peace be upon him) as saying: A woman who has been previously married (Thayyib) has more right to her person than her guardian. And a virgin should also be consulted, and her silence implies her consent."⁵⁷⁶ Islamic law gives women rights that were not given to men, but made it necessary for men to give to women, such as the right to a

⁵⁷² This hadith was narrated by Abu Dawud no. 3046, book. 19, see Sulaiman Ibn Al Aash'ath, Sunan Abu Dawud, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984

⁵⁷³ Hassan Al-Sheikh, Deriving the Saudi judicial system from Judicial principles of the Islamic Sharia, p. 22. via: www.saaaid.net/book/8/1627.doc (Last access July 14, 2016)

⁵⁷⁴ Sultan Salahuddin, The Legacy of Women and the Issue of Equality, Egypt: Dar Nahdht Misr for Printing, Publishing and Distribution, The First Edition, 1990, p. 3-4

⁵⁷⁵ Omar Al Ashqar, The Provisions of Marriage in the Light of the Quran and the Sunnah, p. 81-90, Dar Al-nafaes for Publishing and Distribution, Lebanon - Beirut, First Edition 1997.

⁵⁷⁶ Imam Muslim, Sahih Muslim, Hadith Number. 3307, Vol. 8, ((Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

dowry⁵⁷⁷, the right to alimony⁵⁷⁸, and the right to housing⁵⁷⁹. On the other hand, Islam gave the man the right to the leadership and stewardship of the house, which means responsibility for spending and general supervision.⁵⁸⁰ While Islamic law granted women the right to care for the house.⁵⁸¹ In relation to other rights and duties, traditional Islamic law has affirmed the equality of men and women in carrying them out.⁵⁸² According to the Holy Quran, God said: "And women shall have rights similar to the rights against them, according to what is equitable."⁵⁸³

4. 3. 1. 2. 2. 1. 1. The Right to Inheritance

The woman does not always get half of what the man gets, but, in many cases, women get more than what men do. In many cases, women inherit like men, and there are even cases in which women inherit more than men, and there are cases in which women inherit while their male counterparts do not inherit.⁵⁸⁴ After an indept reading of Dr. Salahuddin Sultan's book, "The Inheritance of Women and the Issue of Equality," it becomes clear that, in more than 30 cases, women get a similar or a bigger share than men do. This shows that the differentiation in the inheritance is not based on gender discrimination but on the basis of taking into account the rights and duties of men and women as determined by the that life each of them lead.⁵⁸⁵

⁵⁷⁷ Imam Nawawi, the Garden "Rawdat al-Talibeen wa Umdat al-Mufteen", Vol. 7, p. 249, Dar El-Marefah for Publication, Beirut 2006. Also, the Quran, verse (4:4) that states: "And give the women (on marriage) their dower as a free gift."

⁵⁷⁸ Omar Al Ashqar, The Provisions of Marriage in the Light of the Quran and the Sunnah, p. 280, Dar Al-nafae for Publishing and Distribution, Lebanon - Beirut, First Edition 1997. Also, the Quran, verse (65:7) that states: "Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what God has given him."

⁵⁷⁹ Ibn Qudamah al-Maqdisi, Book of Al Mughni, Vol. 11, p. 290, Dar Al-kitab Alarabi Publishers, Beirut 1983. Also, the Quran, verse (65:6) that states: "Let the women live (in 'iddat) in the same style as ye live, according to your means."

⁵⁸⁰ The Quran, verse (4:34) that states: "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means."

⁵⁸¹ According to the Sunnah, the Prophet, peace be upon him, said, "A woman is the guardian of her husband's house and is responsible for it." See Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 18, Vol. 2, ((Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

⁵⁸² Mohammed Khader, Freedom in Islam, p. 27-30, Dar Al-Eatsam for Printing, Publishing and Distribution, Egypt-Cairo

⁵⁸³ The Quran, verse (2:228).

⁵⁸⁴ Sultan Salahuddin, The Legacy of Women and the Issue of Equality, Egypt: Dar Nahdht Misr for Printing, Publishing and Distribution, The First Edition, 1990, p.4

⁵⁸⁵ Nawal Al-Eid, Women's Rights in the Light of the Sunnah, p. 381-405, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2006.

4. 3. 1. 2. 2. 1. 2. Distinguishing Between Men and Women regarding the Responsibility of Defending the Islamic State.

Women are not required to do what is required of men in defending the Islamic state. The man bears the greatest responsibility in the protection of religion, homeland, and borders. Women may be assigned military tasks and the like if the Islamic Army needs them but in very limited circumstances.⁵⁸⁶ After this review of the principle of equality in the perspective of Islamic law and the extent of its impact on hate speech, it is possible to conclude that Islamic law considers justice the foundation of some of its provisions, and also that distinction in some judicial rules is not based on racial discrimination but on the facts related to the nature of men and women and the rights and duties that suit each of them.⁵⁸⁷ Equality is restricted by many restrictions with respect to the details of judicial rules. Regarding the right to litigation, everyone is equally entitled to this right, and all the intellectual, moral, religious, and scientific rights are equally guaranteed to everyone without discrimination on any grounds such as religion, race, or gender, etc. Based on what has been aforementioned, any form of hate speech on any of the foundations of racial discrimination is unacceptable under traditional Islamic law.

4. 3. 1. 2. 3. Violation of Human Dignity

In the Islamic perspective, a man or a woman is a creature honored by God. According to the Quran, the verse stated "We have honoured the sons of Adam."⁵⁸⁸, and "We have indeed created man in the best of moulds."⁵⁸⁹ As well as, "O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you."⁵⁹⁰

⁵⁸⁶ Fatwa no. 38436, Fatwa center - Islamweb, via:
<http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=FatwaId&Id=38436> (Last access December 29, 2016)

⁵⁸⁷ Nawal Al-Eid, Women's Rights in the Light of the Sunnah, p. 54-60, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2006. See, also, Sultan Salahuddin, The Legacy of Women and the Issue of Equality, Egypt: Dar Nahdht Misr for Printing, Publishing and Distribution, The First Edition, 1990, p.12

⁵⁸⁸ The Quran, verse (17:70).

⁵⁸⁹ The Quran, verse (95:4).

⁵⁹⁰ The Quran, verse (49:13).

The above texts stressed the God's honoring of man, and even the final text explicitly stipulates the rejection of differentiation between people and tribes on any ground such as color, gender, or race, instead made good deeds the criteria for preference.⁵⁹¹

In summing up, the content of the speech refers to the areas covered by the speech. For the expression to be classified as "hate speech," it has to violate one of the following areas:

A. The Islamic five constants:

An expression is classified as hate speech when it violates one of the five constants through the use of one of the contexts set forth in the next section. The topics that fall under the five constants are as follows:

1. The belief in the Divinity, Allah's angels, messengers, or holy books.
2. Faith in the Prophet, peace be upon him, and this includes any expression that comes in one of the contexts of hate speech and is directed at the Prophet, peace be upon him, his wives, his family, or his companions.
3. The rituals of worship, and this includes any expression that comes in one of the contexts of hate speech and involves holy religious rituals such as prayer, zakat, fasting, and pilgrimage, and also those who follow the Quran and the Sunnah because of performing their religious duties.
4. The supreme Islamic values, and this includes any expression that comes in one of the contexts of hate speech and tries to violate the principle of honesty through spreading rumors, changing the facts, or lying; the principle of respect for others; the principle of good behavior in the call to Allah; and the principle of respect in dialogue with non-Muslims.
5. The Islamic texts relating to aspects of belief, and this includes any expression that comes in one of the contexts of hate speech and tackles the oneness of Allah, the doctrine of Prophethood, revelation, or faith in the last day and in resurrection.

B. The heavenly religions

⁵⁹¹ Abdullah Alturki, Human Rights in Islam, p. 26-28, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

An expression is classified as hate speech when it violates the sanctity of the heavenly religions through using one of the contexts of hate speech. The topics included in this concept are:

1. Any expression that violates the principle of freedom of religion.
2. Any expression that comes in one of the contexts of hate speech and violates the rights of the followers of heavenly religions.

C. The principles of Islamic justice and equality:

An expression is classified as hate speech when it violates the principles of justice and equality by using one of the contexts of hate speech. The topics included in this concept are:

1. The principle of equality, and it includes: -

Any expression that in violation of the principles of the equality of others in the habeas corpus or human dignity.

2. The principle of justice and it includes: -

Any expression that comes in one of the contexts of hate speech in violation of the principles of justice relating to the distinction between men and women, or in marriage, inheritance, and the responsibility of defending the Islamic state.

4. 3. 1. 3. The Context of Hate Speech (Intent)

Through the context of a speech, the intention of the promoter of the speech may be determined. For example, an expression includes racial discrimination on the basis of color if it says, "White men and women are the only ones who deserve life and deserve human dignity." This speech proves the intention of racial discrimination through the context of the preference of the white man. Hence, it is judged as hate speech. The context is enough to determine the intent of the promoter of the speech.⁵⁹² Moreover, some other clues, such as repeating the expression more than once on several occasions, or taking into account the history of hatred of the promoter of the speech that verifies that the speech is serious in the context of hate speech, are all considered co-factors that help confirm the intention of the promoter of the speech.⁵⁹³ However, they are not key

⁵⁹² Abdul Qadir Odeh, Comparison between the Islamic Criminal Law and Positive law, Vol. 1, p. 367-377, Lebnon, Beirut: Dar Al Arab Book for Publishing and Printing.

⁵⁹³ Ibid

elements in considering the expression as hate speech. The only factor in identifying the intention of the promoter of the speech is the type of context in which the speech came.

As mentioned previously, International law clearly specifies certain contexts that determine the intention of the promoter of the expression of extremism, as such, nationalistic hatred, racial hatred, religious hatred, incitement to hostility or violence, discrimination in any form, including those of race, color, religion, language, or national origin, and advocacy for war. Similarly, traditional Islamic law criminalizes any context characterized by hostility, including the context of a call to hatred, violence, or hostility; or in the context of incitement, ridicule, derogation, challenge to be hostile, insult, or cursing; or in the context of racial discrimination on the basis of color, race, gender, or language; or in the context of religious, cultural, ideological, political, social or economic affiliations.⁵⁹⁴ Traditional Islamic law considers any context of hatred against religion, life, wealth and property, thought, and offspring as hate speech in order to protect rights of others and create the perfect life that a person can live peacefully.⁵⁹⁵ To understand how Islamic law rejects the contexts of national, racial or religious hatred, incitement to hostility or violence, discrimination in any form, including those of race, color, religion, language, or national origin, and advocacy for war, it is important to realize that Islamic law adopt five objectives embodied in protecting and preserving the basic necessities, which are the right of religion, life, wealth and property, intellect, and progeny.⁵⁹⁶

⁵⁹⁴ Maher Holi, *Freedom of Expression and Respect of Religions and Sanctities*, p.3, Islamic University in Gaza, Palestine 2008. See, also, Firas Abdul Jalil, *Freedom of Expression in the Holy Quran*, p. 166-167, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁵⁹⁵ Abdullah Alturki, *Human Rights in Islam*, p. 28 & 33-63, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

⁵⁹⁶ Mohammed Albishir, *Freedom of Opinion in Islam and Legal Systems*, p. 112, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009

4. 3. 1. 3. 0. Using One of Prohibited Contexts with the Intent of Violating the Following Basic Human Rights

4. 3. 1. 3. 0. 0. The Right to the Protection of Religious Beliefs; Holy Places and Monuments

Islamic law respects a person who does not want to be Muslim and gives him all of the fundamental rights.⁵⁹⁷ Thus, Islamic law does not pressure any person to join Islam according to the Quranic verse that states: "Let there be no compulsion in religion".⁵⁹⁸ Moreover, Islamic law prevents all forms of insulting other religions or contempt for their followers.⁵⁹⁹ The verse (6:108) declares: "Revile not ye those whom they call upon besides God, lest they out of spite revile Allah in their ignorance."⁶⁰⁰ Consequently, the entire freedom to choose a religion is guaranteed and protected by Islamic law. Therefore, freedom of speech must be in accordance with this principle having complete respect of followers of different religions. Although Muslims' believe that Islam is the only true religion, which is similar to the belief of the followers of different religions regarding their own religions, Islamic law asks that Muslims respect others religions, because religious belief is a guaranteed right for all and is not inconsistent with respect for religion.

In addition to its respect of the principle of freedom of religion and the refusal of insulting the followers of other religions, Islamic law always stresses the protection of religions, the preservation of its sanctities, and the non-infringement of their monuments.⁶⁰¹ The charter of Medina included: "The Jews shall maintain their own religion and the Muslims theirs."⁶⁰² In order to protect the right to religion, there is a text that stressed this right: According to Sunnah: Ibn Abbas said that when the Prophet, peace be upon him, dispatched his armies, he said: "Do not kill

⁵⁹⁷ Maududi, Sayed & Abu Al-Aala, Human Rights in Islam, The Islamic Foundation UK , London, 1980, p. 28.

⁵⁹⁸ The Quran, verse (2:256).

⁵⁹⁹ Firas Abdul Jalil, Freedom of Expression in the Holy Quran, p. 170, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁶⁰⁰ The Quran, verse (6:108).

⁶⁰¹ Maher Holi, Freedom of Expression and Respect of Religions and Sanctities, p.5-8, Islamic University in Gaza, Palestine 2008.

⁶⁰² Dr. A. Zahoor and Dr. Z. Haq, Prophet Muhammad's treaty with Jew, via: <http://www.cyberistan.org/islamic/treaty22.html> (Last access July 15, 2016)

the dwellers of hermitages.”⁶⁰³ Thus, any expression intended to incite violent acts or hostility that violates the right to the protection of religious beliefs and holy sites and monuments is criminalized under Islamic law.

4. 3. 1. 3. 0. 1. The Right to the Protection of Life

All legislations aim to protect human life and consider it imbued with sanctity. According to the Holy Quran "If any one slew a person - unless it be (in retaliation) for murder or for spreading mischief in the land - it would be as if he slew the whole of mankind: and if any one saved a life, it would be as if he saved the life of the whole of mankind."⁶⁰⁴ Traditional Islamic law does not only prohibit crimes against humanity as a whole, but prohibits crimes against even a single person. Any expression that aims to incite to kill someone or deprive him of the basic needs of life is criminalized under traditional Islamic law.⁶⁰⁵

4. 3. 1. 3. 0. 2. The Right to the Protection of Personal Property

Islamic law guarantees personal property rights, including the right to wealth and preservation of private property. It has developed legal systems to regulate business transactions, and announced clearly that these transactions should be based on explicit desire (satisfaction).⁶⁰⁶ In order to protect wealth and property, theft is considered a crime punishable by law.⁶⁰⁷ Any expression that calls for hatred or incitement against a person on the basis of wealth or personal property is criminalized under Islamic law.

4. 3. 1. 3. 0. 3. The Right to the Protection of Thought

A person's speech expresses his thought, analysis, and position on certain issues. Accordingly, to gain free expression, freedom of thought must be equally guaranteed. According to Islamic law, all citizens have the right to think freely with the limitations allowed by the law

⁶⁰³ Imam Ahmed Ibn Hanbal, Mosnad Imam Ahmed Ibn Hanbal (d. 241), Vol. 1, Hadith Number. 2728, via: http://islamport.com/d/1/mtn/1/89/3418.html?zoom_highlightsub=%E6%E3%CA%E4 (Last access July 15, 2016)

⁶⁰⁴ The Quran, verse (5:35).

⁶⁰⁵ Abdullah Alturki, Human Rights in Islam, p. 33-63, the Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia. See, also, Mohammed Khader, Freedom in Islam, p. 27-30, Dar Al-Eatsam for Printing, Publishing and Distribution, Egypt- Cairo.

⁶⁰⁶ Muwaffaq al-Din Al Maqdisi, The Enricher (Al Mughni), Volume. 3, p. 482, Cairo Office, (1968)

⁶⁰⁷ Rudolph Peters, Crime and Punishment in Islamic Law, Cambridge University Press, New York, p.7

and ethics.⁶⁰⁸ The verse (2:266) in the Quran says: “Thus doth Allah make clear to you (His) Signs; that ye may consider”.⁶⁰⁹ This Quranic text enacts the right to freedom of thought.⁶¹⁰ The intellectual differences among the Islamic schools are the most obvious example of this principle that will be addressed extensively in the section of (freedom of criticism). Islamic law protects the intellectual rights of the individual and the society through freedom of expression and giving humankind the right to freedom of criticism.⁶¹¹

Furthermore, consultation is a form of freedom of thought, because each member of the Muslim community has the right to express his opinion in a high level of transparency and democracy. According to the Quranic texts, God commands the Prophet Muhammad to adopt the principle of consultation as the following verses declare: “And consult them in affairs (of moment)”⁶¹² and “Who (conduct) their affairs by mutual consultation”⁶¹³ As well as, The Prophet, peace be upon him, said, “The religion (Al-Din) is a name of sincerity and well wishing.” Upon this Companions said: "For whom?" He replied: "For Allah, His Book, His Messenger and for the leaders and the general Muslims.”⁶¹⁴ As a result, freedom of consultation is an essential human right, upon which Islamic speech also depends, to discuss issues that concern the entire community.⁶¹⁵

Traditional Islamic law, also, safeguards through the protection of intellectual property rights and copyright. The Prophet, peace be upon him, said: "The claimants would get their claims.”⁶¹⁶ The individual property rights fall under the rights in the text above. Islam forbids giving intellectual property rights to anyone other than their owners. Based on the aforementioned, any

⁶⁰⁸ Khan, Shafique Ali, *Freedom of Thought and Islam*, Royal Book Company, Karachi, 1989, p. 1

⁶⁰⁹ The Quran, verse (2:266).

⁶¹⁰ Abdullah Alturki, *Human Rights in Islam*, p. 40, The Ministry of Islamic Endowments & Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

⁶¹¹ Mohammed Albishir, *Freedom of Opinion in Islam and Legal Systems*, p. 119-132, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2009

⁶¹² The Quran, verse (3:159).

⁶¹³ The Quran, verse (42:38).

⁶¹⁴ Imam Muslim, *Sahih Muslim*, Hadith Number. 6252, Book. 32, ((Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁶¹⁵ Firas Abdul Jalil, *Freedom of expression in the Holy Quran*, p. 162-163, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁶¹⁶ Imam Muslim, *Sahih Muslim*, Hadith Number. 98, Book. 1, Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

expression that calls for incitement or other violation of the intellectual rights or for suppressing freedom of expression or the right to criticize is criminalized under Islamic law.

4. 3. 1. 3. 0. 4. The Right to the Protection of Offspring

In order to protect the right to offspring, traditional Islamic law established laws including the laws of marriage, divorce, and care for minors.⁶¹⁷ These laws are designed to ensure the real protection of offspring. Islamic law clearly provides protection for the rights of children and generations in having their families built on a legally protected basis; it forbids adultery and sexual relations outside marriage.⁶¹⁸ Therefore, any expression that calls for the violation of the rights of family or children is criminalized under Islamic law. False accusations of adultery fall under this criminalized category, because they have a strong and direct impact on the life of the children who will be deprived of good upbringing.⁶¹⁹

In summary, an expression is classified as hate speech when it comes in the context of a call to hatred, violence, or hostility; or in the context of incitement, ridicule, derogation, , insult, or cursing; or in the context of racial discrimination on the basis of color, race, gender, or language; or in the context of religious, cultural, ideological, political, social or economic affiliations. All these contexts are classified as hate speech when they violate one of basic human rights that can be summarized as follow:

1. Any expression that comes in the context of a call to hatred, violence, hostility or discrimination in violation of the right to the protection of religion, including beliefs, or sanctities, or religious monuments. And so on.
2. Any expression that comes in the context of a call to hatred, violence, hostility or discrimination in violation of the right to the protection life, including the right to security, as well as the availability of the basic necessities of life.
3. Any expression that comes in the context of a call to hatred, violence, hostility or discrimination in violation of the right to personal property, including wealth and personal property.

⁶¹⁷ Mohammed Khader, *Freedom in Islam*, p. 53-58, Dar Al-Eatsam for Printing, Publishing and Distribution, Egypt-Cairo.

⁶¹⁸ Abdulkareem Zidan, *Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh)*, p. 380, 6th Edition, Cordoba Corporation, Saudi Arabia (1976)

⁶¹⁹ Ibid.

4. Any expression that comes in the context of a call to hatred, violence, hostility or discrimination in violation of the right to the protection of intellectual property, including copyright, freedom of expression, or freedom of criticism
5. Any expression that comes in the context of a call to hatred, violence, hostility or discrimination in violation of the right to the protection of offspring, including the rights of family and children.

4. 3. 1. 4. The Effects of Hate Speech According to Its Content and Context

Mere abuse is sufficient to classify an expression as hate speech, whether the end-results occur or not, such as violating the rights of any individual or a group, discrediting them, breaching national security, or damaging the higher interests of the community.⁶²⁰ This is because hate speech or incitement is a separate offence in the perspective of Islamic law, once it is promoted, and abuse occurs, without considering the effects of that speech.⁶²¹ If this speech has effects, the promoter of the speech will be punished for two crimes: the crime of hate speech, and the crime of the act that was the result of the speech as an accomplice in the crime that took place.⁶²²

4. 3. 1. 4. 0. The Element of Intent and Direct Relation between Hate Speech and the Threat to the Rights of Others from Traditional Islamic Perspective

After reviewing the types of criminalized speech under Islamic law, as well as some of the principles to be respected in speech, it is imperative to determine the elements to be regarded in considering that the speech falls under the concept of "hate speech", or that the speech itself is abusing enough to be punished under Islamic law. As we have previously stated, international law has adopted two elements to consider that the expression is punishable as hate speech, namely: deliberate incitement of hatred (intent), and direct connection between the expression and effects. This section will discuss these two conditions in the light of Islamic law in order to reach a precise definition of hate speech. To verify whether these two conditions are considered basic components of hate speech, it is imperative to emphasize some of the general rules of Islamic law:

⁶²⁰ Mahmoud Zaini, *Cooperation and Its Impact in the Commission of the Crime of Murder: a Comparative Study between Islamic Sharia and Positive law*, p. 249, Dar New University for publication, Alexandria 2004.

⁶²¹ Kamal Muhammad, *The Provisions in Participating in the Crime from the Islamic Jurisprudence*, p. 174, An-Najah National University, Palestine 2010

⁶²² Ibid.

1. The general rule in the Sharia is: “Self-talk, insinuation, or private expression of what one intends to do—provided that no action is taken or public expression is made—is neither classified as a crime nor subjected to punishment.”.⁶²³

This rule is based on a text of the Sunnah that declares: “The Prophet, peace be upon him, said: ‘Allah forgives my followers those (evil deeds) their souls may whisper or suggest to them as long as they do not act (on it) or speak.’” Based on this rule: If an individual or a group thinks of a crime, there is no punishment as long as they do not carry out their intention. These intentions enter into force the following:

- a. Any action that translates this intent into action, such as committing such crime, or
- b. Words, expressions, or hateful speech that orders another person to commit the crime, or assist him to commit it, or conspire with him to commit it.⁶²⁴

Thus, just having intent without words or actions that ensue is not sufficient to consider the expression hate speech.

2. Under Islamic law, conspiring to commit crime, abetting to it, and aiding the criminal in committing his crime are all considered separate crimes, whether the deliberate crime occurred or did not occur.⁶²⁵

This legal rule is based on the two evidences:

- A- According to the Holy Quran, God said: "Help ye one another in righteousness and piety, but help ye not one another in sin and transgression."⁶²⁶

⁶²³ Abdul Qadir Odeh, Comparison between the Islamic Criminal law and Positive Law, Vol. 1, p. 367-377, Lebanon, Beirut: Dar Al Arab Book for Publishing and Printing.

⁶²⁴ Fahd Al Arfaj, Incitement to Crime in the Perspective of Islamic Jurisprudence and the Saudi System, p. 73-75, Naif Arab University for Security Sciences, 2006.

⁶²⁵ Abdul Qadir Odeh, Comparison between the Islamic Criminal law and Positive Law, Vol. 1, p. 367-377, Lebanon, Beirut: Dar Al Arab Book for Publishing and Printing. See, also, Abdullah Saud Al-Musa, The Provocation on Terroristic Crime between Islamic Law and Positive law, p. 85, Naif Arab University for Security Sciences, Saudi Arabia, 2006.

⁶²⁶ The Quran, verse (5:3).

The Islamic law forbids calling for sinning and aggression, whether through incitement, conspiracy, or aiding in the crime, which are considered more serious sins and wrongdoings in Islamic criminal law.⁶²⁷

B- According to one of the rules of Islamic Jurisprudence: "The means to a prohibited act is also prohibited."⁶²⁸

Conspiring, inciting, or aiding to commit a crime in any form of words and deeds leads to committing crimes that are forbidden by Sharia law, and therefore, the intent that is accompanied by work or words supporting it is an independent crime, whether the deliberate crime occurred or not.⁶²⁹ This entails the following:-

1- Hate speech, including incitement and racist speech of which no crime occurred, is punishable by Islamic law as a separate crime.

2- If the crime was committed because of hate or inciting speech, the promoter of that speech would be considered an accomplice and would be subjected to punishment for it.

According to the above: Islamic law does not criminalize bad faith that is not followed by words or actions to explain it, while it considers the intent accompanied by words or actions an independent and punishable offence. Just issuing any form of incitement or discrimination on the basis of religion, race, or gender is considered hate speech that is punishable even if a crime did not occur because of it. Therefore, Islamic law does not require the existence of a direct connection between the speech and the threat to others in considering the speech hateful because incitement and discriminatory speech is an independent crime. In the case of the existence of a direct connection between the expression and the threat, the offence of the participation in the criminal act is added to the crime of incitement.

⁶²⁷ Fahd Al Arfaj, Incitement to Crime in the Perspective of Islamic Jurisprudence and the Saudi System, p. 73-75, Naif Arab University for Security Sciences, 2006.

⁶²⁸ Walid Saeedan, Explaining Jurisprudential Rules, Vol. 3, p. 21, The Comprehensive Electronic Library, 2010.

⁶²⁹ Abdul Qadir Odeh, Comparison between the Islamic Criminal law and Positive Law, Vol. 1, p. 367-377, Lebnon, Beirut: Dar Al Arab Book for Publishing and printing.

4. 3. 2. Definition of Hate Speech from Traditional Islamic Perspective

The concept of hate speech in the perspective of traditional Islamic law, based on the five elements, does not exclude any form of speech, but stipulates that "any word or act" should be considered speech. In addition, the promoter of the speech includes "any individual and any group." Traditional Islamic law provides specific topics and fixed principles under the elements of "the content of the expression" and "the context of the expression." This law determines multiple contexts that determine the intent of the promoter of the speech. In conclusion, Islamic law considers that mere abuse is what determines whether a word or act should be categorized as hate speech. Islamic law considers that the intent of the promoter of speech accompanied by words or actions is an independent crime and punishable by law. Thus, the existence of a direct connection between the speech and the threat to others is not required in considering the speech hateful. In the case of the existence of a direct connection between the expression and the threat, the offence of the participation in the criminal act is added to the crime of incitement. It is likely that a single speech might address more than the content of the speech, may come in more than one context of hate speech, and may result in many potential effects. Therefore, the following table will be a reference in every speech as a demonstrative test to review all the aspects of a speech in order to conclude the degree to which the speech is considered lawful, or lies within the scope of hate speech according to Islamic law.

Figure (2): The Actual Elements of Hate Speech from Traditional Islamic Perspective

N	The Actual Elements of Hate Speech from Traditional Islamic Law				Check	HOW	
1	The Content of Hate Speech	Violation of One of the Five Islamic Constants	Abusive Speech against the Divine Entity				
			Abusive Speech against the Prophet Muhammad	Abusive Speech against the Prophet Muhammad himself			
				Abusive Speech against the Prophet's Wives, Family, and Relatives			
				Abusive Speech against the Companions of the Prophet			
			Abusive Speech against the Islamic Religion or the Rites of Worship	Abusive Speech against the Quran			
				Abusive Speech against those who are devout to the Islamic religion			
			The Speech that Violates the Islamic Supreme Moral Values				
			The Speech that is Distrustful of the Definitive Islamic Texts				
			Violation of Divinely-Revealed Religions				
		Violation the Principles of Islamic Justice and Equality					
		Violation of Human Dignity					
2	The Context of Hate Speech	Prohibited Contexts	check	With the Intent of Violating the Following Basic Human Rights	Check		
		The Context of a Call to Hatred		The Right to the Protection of Religious Beliefs			
		The Context of a Call to Hostility		The Right to the Protection of Life			
		The Context of a Call to Violence		The Right to the Protection of Thought			
		The Context of Incitement		The Right to the Protection of Personal Property			
		The Context of Ridicule					
		The Context of Racial Discrimination		Abuse to Others in the very Least			
		The Context of Insult					
3	The Effects of Hate Speech According to Its Content and Context	The Right to the Protection of Offspring					
		Other Worse Effects					

After analyzing the primary and secondary sources of traditional Islamic law, and deducing five elements that seek to infer a dividing line between freedom of expression and hate speech, this research can put a holistic and explanatory definition of hate speech from a traditional Islamic law, as follow; “Any word or act by an individual or group in any way dealing with topics that fall under the five constants of the Islamic religion, the divinely-revealed religions, the Islamic principles of justice and equality, or the basic humanitarian rights; and that comes secretly and publicly in the context of calling or incitement to any form of hatred, violence, or racial discrimination, or any context characterized by hostility. This expression typically results in abuse to others in the very least, or any other even worse effects, whether they occurred or did not occur.”

Figure (3): Definition of Hate Speech from Traditional Islamic Perspective Depends on Five Elements



Therefore, this definition and its elements are considered as a reference for the next analytical chapters in every speech to review all the aspects of a speech in order to conclude the degree to which the speech is considered lawful, or lies within the scope of hate speech according to traditional Islamic law. The following is an illustrative graph for this definition based on the five elements of hate speech in order to learn the meaning of some of the terminology.

4. 4. Conclusion

When Islamic discourse is discussed, the concept must be applicable to all types of discourses, including religious; political and cultural. Islamic discourse must not be defined according to those who issued the discourse; it must be defined through the Islamic perspective. The concept of Islamic discourse must remain the focal point and the main criterion in the analysis of all issues relating to Islamic discourse raised herein. Therefore, a discourse cannot be defined as an Islamic discourse unless the basic standards exist. Islamic discourse derives from an Islamic referential framework, which is embodied in the primary and secondary sources of Islamic law. Also, Islamic discourse agrees with the immutable constants of the Islamic religion and sublime moral values. In addition, Islamic discourse expresses the cultural and civilizational identity of the Islamic community. Moreover, Islamic discourse must be universal, positive, flexible, receptive to the international world, fully assimilating changes and new developments, and address all contemporary problems and challenges that arise.

Based on the concept, objectives, and conditions, as mentioned above, Islamic discourse never calls for hatred. It enjoys the characteristic of tolerance, because it considers that the existence of disagreement is natural and acceptable. As a result, it is expansive enough without intolerant to accommodate all points of view and opinions. It seeks to achieve the interests of humanity and elevates the value of humanity. To sum up, Islamic discourse is fixed in its essence and content, but, at the same time, it is flexible in the manner in which it provides expression. A discourse that is derived from the Islamic approach, including its sources and principles, is the only means that can preserve communal harmony.

The current Islamic discourses can be classified into the following types: religious, political, and media discourse. All types of Islamic discourse presently swing between strength

and weakness, moderation and extremism, ability and feebleness, depending on the environment, the society, and the internal and external political circumstances in which they evolve. However, the Islamic discourses have played a pivotal role, whether positive or negative, in all events, conflicts and turmoil that have occurred in Islamic states.

This law considers the freedom of the expression to be an important fundamental of human rights to achieve certain essential objectives, which are the disclosure of truth, the honour of human beings, and fundamental rights. In addition, the freedom of expression is constructed, in essence, on some basic principles, such as, everyone shall have the right to criticize, freedom of religion, and freedom of thought. To protect the rights of others and agree with the principles, legal rules, and morals of Islam, Islamic law enacted some conditions and limitations on the freedom of expression. Traditional Islamic law is consistent largely with the International and regional instruments in three conditions of restrictions on freedom of expression, which are "provided by law, must be necessary and based on legitimate aims". As regard with The first condition of the restriction "must be provided by law", traditional Islamic law provides certain contexts, contents, and conditions of expression that must be subject to restrictions, such as, adopting fair speaking and avoiding wrong speaking , preventing laughing at others , prohibiting defamation and sarcasm , rejecting abuse directed to God and the Prophet , behaving well in dialogue among followers of different religions , preventing concealing the truth , ascertaining the truth before making a speech , avoiding publishing evil , and expressing in accordance with the knowledge, not without it .. etc. Regarding the second condition of the restriction "must be necessary", traditional Islamic law expands on defining the scope of necessary restrictions based on its religious nature on the reverse of international law, which imposes restrictions systematically and in line with the social need. Islamic law considers that a social need of Muslims lies in the full respect of the Islamic constants, and not compromising them. As for the last condition of restriction on freedom of expression, which is " must be based on legitimate aims" traditional Islamic law restricts any expression that violates fundamental human rights, which are religion, life, wealth and property, thought, and offspring in order to create the perfect life that a person can live peacefully.

By analysing the relevant texts of the primary and secondary sources of traditional Islamic law, this chapter we found that it is possible to conclude five criteria, which are, form, promoter,

content, context, and potential impact of speech, to discuss the concept of hate speech, to identify the constraints on freedom of expression and to identify incitement to hating.

Traditional Islamic law does not exclude any form of speech, but emphasizes that "any word or act" should be considered as a speech. The form of speech means the template in which comes hate expression, whether 'words' or 'acts'. Traditional Islamic law indicates that the form of expression does not confine to the form of the direct speech, but includes all the forms of expression, such as; books, messages, publications, audio material, fatwas, e-mail messages, promotion materials, and cartoons, etc... In addition, any action, which supports hate speech, whether in the form of public support, justification, publishing, or helping to spread hatred, falls under the form of hate speech.

In addition, the promoter of hate speech includes "any individual and any group," because hate speech is a separate crime from the perspective of Islamic law; therefore, it is not necessary to examine the state of the speech source or its location, whether it is formal and effective or otherwise. Also, there is no need to investigate its impact or the place and means of its release. Likewise, traditional Islamic law does not take into consideration whether the issuer of the discourse is an individual or a group. If a speech is issued by a person or an association and it contains the fundamental elements of content, intent according to the context, and abuse as an inevitable result, or effects that are much worse, it is classified as hate speech.

To know whether a speech is an example of hate speech or not from an Islamic law point of view, it should be analyzed according to the basic elements, which are the content, context, and effect of the speech. Traditional Islamic law provides for specific topics and fixed principles under the element of "the content of the speech," which are any violation of the five constants of the Islamic religion, the divinely-revealed religions, the Islamic principles of justice and equality, or basic humanitarian rights. Moreover, Traditional Islamic law addresses multiple contexts that determine the intent of the promoter of the speech, such as a call to hatred, violence, or hostility; or in the context of incitement, ridicule, derogation, , insult, or cursing; or in the context of discrimination on the basis of color, race, gender, or language; or in the context of religious, cultural, ideological, political, social, or economic affiliations; or in any context characterized by hostility.

Furthermore, traditional Islamic law considers that mere abuse is what determines whether a word or act should be categorized as hate speech. Thus, it does not require the existence of a direct connection between the speech and the threat to others in considering the speech hateful based on the basis that hate speech is an independent crime. In the case of the existence of a direct connection between the expression and the threat, the offence of the participation in the criminal act is added to the crime of incitement. While international law adopts that a direct connection between expression and the threat to the rights of others is necessary to classify it as hate speech. It is worth noting that a single speech might address more than one content area of hate speech, may involve more than one context of hate speech, and may result in many potential ill-effects.

After analyzing the primary and secondary sources of traditional Islamic law, and drawing five elements that seek to infer a dividing line between freedom of expression and hate speech, this chapter concluded that hate speech from traditional Islamic Perspective can be defined as: any word or act by an individual or group in any way dealing with topics that fall under the five constants of the Islamic religion, the divinely-revealed religions, the Islamic principles of justice and equality, or the basic humanitarian rights; and that comes secretly and publicly in the context of calling or incitement to any form of hatred, violence, or racial discrimination, or any context characterized by hostility. This expression typically results in abuse to others in the very least, or any other greater effects, whether they occur or not.

After presenting a precise definition of hate speech and drawing the line between freedom of expression and hate speech, this chapter will be the basis of the analysis in the next chapters to clarify the positions of traditional Islamic law on speeches issued by some groups, doctrines and countries.

Chapter 5: *Analysis of Hate Speech Issued by Those Who Belong to Islam in Reality, and by the terrorist groups Who Identify themselves as Muslims.*

5. 0. Introduction

Today, most cases of hate speech are directly related to terrorist groups, who claim to be Muslims from the Islamic States, or other Islamic political and religious groups. This chapter aims to analyze this type of speech from traditional Islamic perspective to know whether it is classified as hate speech or not. The pervious chapter provided a detailed analysis of the elements and definition of hate speech from traditional Islamic law. Therefore, this definition and its elements are considered as a reference for this chapter in every speech to review all the aspects of a speech in order to conclude the degree to which the speech is considered lawful, or lies within the scope of hate speech according to traditional Islamic law. The first section presents a brief overview of Sunni and Shiite doctrines. This overview involves quotations from ancient and modern literature specific to each sect in order to have a crystal-clear picture; then, the research deduces conclusions about the two ideologies. Sequentially, this chapter moves to analyze some sample of speech issued by followers of both doctrines based on the definition of hate speech from traditional Islamic perspective mentioned in the previous chapter.

The second section addresses terrorist groups that ascribe themselves to Islam, and rely on their speech to promote violence and hostility against other groups and people. First of all, this chapter focuses on such religious justifications as; “the principle of Jihad” and “the freedom of Religion,” which these terrorist groups use in their speech to justify their terrorist acts. Then, it provides brief descriptions of the two most prominent terrorist groups; Al-Qaeda and ISIS. Next, in order to reach the real position of Islamic law toward hate speech by terrorist groups that ascribe themselves to Islam, this chapter moves to analyze examples of Speech issued by followers of both terrorist groups based on the definition of hate speech from traditional Islamic perspective.

The use of hate speech is not new to the Arab scene, but it has become more open and obvious with the revolutions of the Arab Spring states. Therefore, the last section addresses the spread of hate speech in the Arab and Muslim states primarily by two parties: The Muslim governments who spoke against political opponents and persons, and the political groups that stole the people’s revolution to reach authority and achieve political gains. This section focuses on hate speech in Egypt as an example of hate speech in the Arab spring states, because Egypt is still

suffering from this speech and it helped convey it to other Arab countries. Although Egypt has an important political, religious, historical, and cultural position, the Egyptian media gave no attention to this position and worked to reinforce the provocative speech and reject peaceful coexistence. This is why hate speech in Egypt in the latter years of the Arab spring was chosen for analysis. Then, in order to reach the real position of Islamic law toward hate speech in the Arab Spring states, this section moves to analyze some examples of speech issued by followers of the Muslim Brotherhood, and speech against them based on the definition of hate speech from traditional Islamic perspective.

5. 1. The Position of Islamic Law on Hate Speech between Sunnis and Shiites

5. 1. 0. Introduction

An in-depth study of Islamic history reveals the conflict between Sunnis and Shiites to have begun as a political dispute about three issues; First, after the Prophet Muhammad's death in AD 632, disagreements broke out over who should succeed him as leader of the Muslim community.⁶³⁰ Sunni doctrine holds that although Muhammad did not appoint a successor, Abu Bakr was elected the first caliph by the Muslim community, and they recognize the first four caliphs (Abu Bakr, Umar, Othman, and Ali) as Muhammad's successors.⁶³¹ In contrast, Shia doctrine holds that Muhammad named his successor, Ali, as the first caliph.⁶³² Second, Ali and his followers postponed punishing the murderers of caliph Uthman until the Muslim state regained its stability and growth. On the other hand, Muawiyyah, who was a governor of Syria, and his supporters thought that the punishment issue was of paramount importance and could not be delayed.⁶³³ Third, Shias believe succession after Imam Ali bin Abi Talib was to be hereditary.⁶³⁴

⁶³⁰ The term Caliphate, a Romanization of the Arabic word Khalifah "succession", is often used interchangeably with the term Imamate. Both terms, not always but most often, refer to the position of succeeding and leading the Muslim community after the death of Muhammad.

⁶³¹ Ibn Abd al-Barr, *Collector of Brief Statements of Science and Virtues*, Vol. 2, P. 355, Dar Ibn Al Jawzi for Publishing, Saudi Arabia, Jeddah 1994

⁶³² Ali Khan Al-Husseini, *The High Grades in the Shiite Layers*, p. 11, Iran - Qom: Beserti Library Publication, Second Edition (1977)

⁶³³ Mohammed Al- Muzaffar (d. 1956), *History of Shia*, p10, Iran - Qom: Beserti Library Publication. See, also, Sayyid Mohsen Amin, *Elders of Shia*, Vol. 1, p. 19, Lebanon - Beirut: Dar Al-ta'aruf Publication (1983)

⁶³⁴ Abu Mohammed Al- Nawbakhti ,*Sects of Shia*, p. 21, Istanbul: Al- Dawlah press

However, Sunnis accept the rule of Muawiyah as Ali's heir, Hasan ibn Ali, concluded a treaty acknowledging the rule of Muawiyah.⁶³⁵

These differences did not affect the religious aspect. Everyone agrees on the sources of sharia and on a commitment to the five Islamic constants (divinity, prophecy, and worship rituals, Islamic supreme values, and sacred texts); Shia, as understood here, can be defined as "old Shia." Then, the political dispute evolved into religious differences. This shift is considered a turning point in the real conflict between Sunnis and Shiites in the current era.

Hate speech emerged in Islamic history during the rule of Othman Ibn Affan, at the hands of a man called "Abdullah Ibn Saba," a Jew from Sanaa who claimed he was a Muslim and the founder of Shia doctrine.⁶³⁶ He started to go about the Muslim countries and deliver his Speech, but he did not get any approval until he reached Egypt and started to spread hate speech against the Caliphs, Abu Bakr, Omar, and Othman (Allah be pleased with them). Ibn Saba claimed that Ali was the one who deserved to be the successor, accused Othman of being an unjust man and abused authority and incited people to revolt against the governors of the Islamic provinces. This discourse led to the Caliph Othman being assaulted and murdered by a group of people who received Ibn Saba's provocative discourse and were influenced by it.⁶³⁷ It is notable to mention, that those who were punished for murdering the Caliph Othman were those who did commit the murder, however, those who produced the hate speech did not suffer any consequences. Thus, the opposition leader, Abdullah Ibn Saba, was not held accountable because at that time, hate speech was not recognized and there were no standards of evidence to determine whether his speech was the main reason behind the murder of the Caliph Othman.

As there were no sanctions for the practitioners of this discourse, Ibn Saba continued to spread his speech until he caused a war between two groups of Muslims after they reconciled in the age of the Caliph Ali.⁶³⁸ After that, Ibn Saba started to violate the principles and conditions of freedom of speech as he insulted the

⁶³⁵ Sultan al-Amiri, The Position of the Companions about Muawiyah, through Website of Al Durar Al Saniyyah, Encyclopedia of Sects, via: <http://www.dorar.net/article/1207> (Last access 9 August 2016)

⁶³⁶ Ahmad bin Murtada, Layers of Mu'tazila, Correction and Review by Susannah David Fraser, Lebanon- Beirut: Catholic Library, First Edition (1961)

⁶³⁷ Muhammad Al-Tabari, Tabari's history: the History of Nations and Kings, Correction and Review by Muhammad Abu Al Fadl, Vol. 4, p. 340-341 Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1998) Sixth Edition.

⁶³⁸ Ibid, Vol. 4, p. 493-494, See, also, Ismail bin Kathir, The Beginning and The End, Correction and Review by Mohammed bin Abdul Aziz Al-Najjar, Vol. 7, p.260 Saudi Arabia - Riyadh: Al-Asmaee Library for Publishing & Printing.

constants of Islam and claimed that Caliph Ali was a partner of Prophet Muhammad (peace be upon him) in prophethood⁶³⁹. Moreover, he and his followers claimed that Muhammad (peace be upon him) had concealed parts of Qur'an from the Muslims and they believe that Ali would return to life before the doomsday because he did not die but he was raised back to Allah.⁶⁴⁰ The language of discourse used by Ibn Saba and his group was based on insulting the companions of the messenger Muhammad (peace be upon him) and describing them as unbelievers and hypocrites.⁶⁴¹ Furthermore, the discourses of Ibn Saba and his followers peremptorily violated one of the religion's constants, consequently abusing freedom of speech by describing Caliph Ali as a God. The sanction that had been issued against Ibn Saba was expulsion from Al-Medina and burning in defiance of his followers.⁶⁴² These sanctions were considered the first penal sanction issued to fight those who violate the conditions, limits, and constants of the Islamic discourse.

Throughout Islamic history, Shia doctrine has been based on the discourses of Ibn Saba, because it is similar to his beliefs. Even some Shia scholars such as Ebn Al-Mortada affirm that their doctrine is related to the beliefs of Ibn Saba.⁶⁴³

For instance; Al-Khomeini said: "One of the basics of our doctrine is that our Imams have a position that no Angel or a prophet can achieve."⁶⁴⁴ This means that the Imam has the same characteristics as a god, which contradicts the first constant of Islam, which is the principle that there is no God but Allah. As we have mentioned in the previous chapter, freedom of speech is applicable to everything except violating the constants of Islam.

Perhaps, the most salient points of contention are issues of Imamate, the companions and wives of the prophet (PBUH). These controversies between Sunnism and the new Shiism caused

⁶³⁹ Al-Qom Al-Ash'ari, Articles and Doctrines, Iran - Tehran: Haidarah for Publishing & Printing (1963). See, also, Al- Malti Mohamed, Warning and the Response to the Whims and Fads, Iraq - Baghdad Muthanna Library for Publishing & Printing, and Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1968)

⁶⁴⁰ Ibid

⁶⁴¹ Al-Haythami Al-Makki, The Holocaust Lightning in Response to the People of Innovation and Heresy, Egypt - Cairo: Cairo Library for Publishing & Printing (1956)

⁶⁴² Ibn Qutaiba A-dinouri, The Knowledge, Lebanon- Beirut: Dar Ihya Turath for Publication, Second Edition (1970). See, also, Ibn Taymiyyah, The Curriculum of Sunnah in the Repeal of the Words of the Shiites, Vol. 1, p. 6, Saudi Arabia - Riyadh: Riyadh presses.

⁶⁴³ Ahmad bin bin Murtada, Layers of Mu'tazila, Correction and Review by Susannah David Fraser, Lebanon- Beirut: Catholic Library, First Edition (1961)

⁶⁴⁴ Ruhollah Khomeini, Islamic Government, p52, Lebanon - Beirut: Dar Al Fikr Publication, Third Edition.

a bloody history between the followers of both sects; it has taken new dimensions in terms of ideological, social, political, and scientific debate. Moreover, it has transformed from hate speech into terrorist acts. For a striking example, the Fāṭimid dynasty was founded by the 11th Imam Ubayd Allah al-Mahdi Billah.⁶⁴⁵ This political and religious dynasty dominated an empire in North Africa and subsequently in the Middle East starting from 909.⁶⁴⁶ The Fāṭimids killed and crucified everyone who belonged to Sunni Islam.⁶⁴⁷ Also, the Safavid dynasty was founded in 1501 in Iran.⁶⁴⁸ This ruling dynasty made some radical changes for Shiites in the Middle East. It appears that this state sought to dogmatize government policies and promote Sunni Muslims as the real enemy.⁶⁴⁹ In contrast, Sheikh Muhammad ibn Abd Al-Wahhab (Wahhabism) directed messages against the violations of the Shiite sect and protected this calling.⁶⁵⁰ This chapter will discuss Wahhabism and the beliefs of Sheikh Muhammad ibn Abd Al-Wahhab's followers.

Despite all these fundamental differences and painful historical incidents among Shias and Sunnis, there have been signs of rapprochement between the parties, apart from whether these signs are positive or negative. For example, during the Crusades in the Levant, Sunni and Shia united to face the impending dangers as they shared the same religion, identity, and history. Moreover, some Abbasid caliphs hired Shiite ministers, including Ibn Alqami, the minister of Caliph Al Musta'sim, and Ali Ibn Yaqteen, the ministers of Harun al-Rashid.⁶⁵¹ In addition, the Shiite Fatimid state appointed two Sunni ministers whose names are Radwan Ibn Walkhshi and Al Adel Ibn Alslar.⁶⁵²

⁶⁴⁵ Hassan Ibrahim, *The Fatimid Caliphate in Egypt*, p. 50-51, Al-Amiria Printing House in Cairo 1932.

⁶⁴⁶ Ibid

⁶⁴⁷ Ahmed Maqrizi, *Homilies and Consideration by Mentioning Plans and Effects*, Vol. 1, p. 385-395, Dar Al-Kotob Al-Ilmiyah for Publishing - Beirut, First Edition 1998.

⁶⁴⁸ Mohammed Suhail, *The History of the Safavid State in Iran*, p. 54- 60 Dar An-nafae for Publishing, Beirut, First Edition 2009

⁶⁴⁹ Ibid

⁶⁵⁰ Muhammad bin Abd al-Wahhab, *Call of Sheikh. Muhammad ibn Abd al-Wahhab and its Effect in the Muslim World*, p. 36, Saudi Arabia - Riyadh: The Ministry of Islamic Endowments & Da'awa & Guidance Affairs (2001)

⁶⁵¹ Hamdiya Saleh Delly, *Minister Ali bin pumpkins, and his political role in the first Abbasid era*, Qadisiyah University - Faculty of Education: *Qadisiya Journal of Arts and Educational Science*, No. 1, Vol. 8, p. 211, (2009). See, also, Muhammad Al-Thahabi, *Sir Heraldry*, Vol. 23, p. 361, Al Risala Foundation (2001)

⁶⁵² Emad Hilal, *The History of Egyptian Fatwa (6)*, Published on 03-26-2015 through Masress Website, via: <http://www.masress.com/moheet/2236713> (Last access March 5, 2017)

With the victory of the Islamic Revolution in Iran in 1979 against the Shah's rule, hate speech spread largely between Sunnis and Shiites. After the Iranian revolution, the conflict between Sunnis and Shiites began as an intellectual one, and shifted over time into a political struggle and armed confrontations. Keenly, the Iranian state established political parties and organizations in Bahrain, Lebanon, Yemen, Saudi Arabia, Iraq, and Syria. Such entities contributed to the proliferation of sectarian speech among the citizens of Islamic countries. In reaction, the Sunni sect warned of the dangers of Shiism. This sectarian speech has created an enabling atmosphere for hatred between both sects. For instance, a number of Shiite scholars insulted the Companions of the Prophet, who are considered the best of people after the prophets. Consequently, a number of Sunni scholars spoke against the Shia in response to their claims about the companions and wives of the prophet.

As time went on, a number of armed and powerful Shiite groups have appeared in Arab countries such as the Houthis in Yemen, the Hezbollah in Lebanon, and many Shiite groups in Iraq, besides the ruling regime in Syria. In reaction, Sunni states such as Saudi Arabia, UAE, Kuwait, Sudan, and Bahrain try to counteract these groups. In addition, both sects try to propagandize their ideologies and political agendas.

Following the concept of exporting the Islamic revolution, Iran has supported all Arab revolutions known as the "Arab Spring." These revolutions were carried out against the heads of states who are not allies, including Egypt and Libya. At the same time, Iran rejected the Syrian revolution against Bashar Al-Assad who is Iran's primary ally in the Middle East. Accordingly, Iran sent aid directly or through its allied groups such as Hezbollah and a number of Iraqi militias to stop the Syrian revolution.⁶⁵³ In contrast, the Saudi government realized that the war in the region has become a sectarian one, so it founded an Islamic alliance to eliminate terrorism and especially the Shiite backed by Iran in Yemen. In a word, what is happening in the Middle East is a sectarian

⁶⁵³ Ali Alfoneh, Hezbollah Fatalities in the Syrian War, Published on February 22, 2016 through Website of The Washington Institute, via: <http://www.washingtoninstitute.org/policy-analysis/view/hezbollah-fatalities-in-the-syrian-war> (Last access 8 August 2016)

struggle between Sunnis and Shiites. This struggle resulted from a brand of sectarian speech, and has escalated to severely strained relations between Saudi Arabia and Iran.⁶⁵⁴

It is worth noting that, provocative rhetoric has caused and/or exacerbated these conflicts and disputes. The question is: what is the position of Islamic law on such speech? Based on the above, this section will present a brief overview of each doctrine. This will include quotations from ancient or modern literature specific to each sect in order to give a crystal-clear picture; then, the research will deduce conclusions about the two ideologies.

5. 1. 1. Concerning Shiite Doctrine

The doctrines of the Shia have gone through different stages of emergence and development. Actually, identifying these stages requires autonomous research to trace the features of each stage. Thus, this section will focus on the origins of Shia doctrine and how the Shia have transitioned from a political party to a religious one. Therefore, this section will trace the stages of development of the Shia and their factions.

5. 1. 1. 0. Definition of Shiite Doctrine

Shiite in Arabic refers to partisans or followers who agree upon something or who support someone.⁶⁵⁵ The word Shiite is mentioned in one of the Quranic verses meaning "sects."⁶⁵⁶ As for those who divide their religion and break up into sects, thou hast no part in them in the least: their affair is with God: He will in the end tell them the truth of all that they did."⁶⁵⁷ Shiite historians have various opinions regarding the emergence of Shiaism. Accordingly, they differ in giving an accurate definition of Shiite doctrine. Here, we will present the history and origins of the Shia according to their own books:

The first opinion:

⁶⁵⁴ Aljazeera, Saudi Arabia Cuts diplomatic Ties with Iran, (2016), via: <http://www.aljazeera.com/news/2016/01/saudi-arabia-severs-diplomatic-relations-iran-160103202137679.html> (Last access 9 August 2016)

⁶⁵⁵ Mohammed Al-Azhari (d. 980), Refinement Language (Tahdhib Al-lugha), Vol. 3, p. 61, Lebnon-Beirut: Dar Ihya Turath Publication, First Edition (2000). See, also, Muhammad Al-Husseini, Bride Crown from Jewels Dictionary (Taj Al Arus min jawahir al qamos), Vol. 5, p. 405, Dar Al Hedaya for Publishing and Distribution.

⁶⁵⁶ Muhammad Rashid, Tafsir Al- Manar, Vol. 8, p. 188, Egypt: Egyptian General Book Authority (1990)

⁶⁵⁷ The Quran, verse (6:159).

Shiite doctrine emerged during the era of the prophet Mohamed (peace be upon him) and they were known as Shi'atu Ali "followers of Ali" and they relied on the interpretation of the following Quranic verse, "Those who have faith and do righteous deeds,- they are the best of creatures."⁶⁵⁸

When this verse was revealed, the prophet Mohamed (peace be upon him) said to Ali, "O Ali! (On the day of Judgment) you and your Shia will come toward Allah well-pleased and well-pleasing," narrated by Jabir.⁶⁵⁹

The second opinion:

Shiites emerged after the death of the prophet Mohamed (peace be upon him). Nawbakhti said, "after the death of the prophet Mohamed (peace be upon him), the nation split into three groups, one of them was Shia of Ali Ibn Talib, from which all of the Shiite sects have come."⁶⁶⁰

The third opinion:

Shi'ism was established in the era of Caliph Ali ibn Abi Talib. Historians have differed in their explanations of whether Shi'ism was established at the battle of the Camel or at the battle of Siffin. Shiite Ibn Al-Nadim believes that Shi'ism was founded at the battle of the Camel,⁶⁶¹ whereas others speculate that it was founded at the battle of Siffin.⁶⁶²

⁶⁵⁸ Ja'far Subhani, Shiite in History Procession, p. 5, Iran: Moawinit Shuuwn Altaemim w Albahwth for publishing, First Edition 1993

⁶⁵⁹ Abdulrahman Al-Suyuti, Durr Scattered ,Vol. 8, p. 589, Beirut: Dar al-Fikr Publication.

Sunni scholars objected to this text for two reasons:

First: the line of transmitters of this Hadith to the Prophet Muhammad is weak, because it's narrators was famous of lying. See Ibn Hajar Al- Asqlani (d. 1448), Taqrib A-ttahdhib, Vol. 1, p. 221, Syria: Dar Alrasheed, First edition (1986).

Second: the text of Hadith is contrary to the text of a true other Hadith, reads as follows:

Anas bin Malik narrated that:

A man said to the Prophet: "O best of creatures!" So he said: "That is Ibrahim." See Sunan Abu Dawud Hadith no. 3352, book. 44, see Sulaiman Ibn Al Aash'ath, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984.

⁶⁶⁰ Abu Mohammed Al- Nawbakhti ,Sects of Shia, p. 2-3, Istanbul: Al- dawlah Press, via:

https://old.uqu.edu.sa/files2/tiny_mce/plugins/filemanager/files/4281797/i000325.pdf (Last access 6 August 2016)

⁶⁶¹ Ibn Al-Nadim (d. 1047), Fihrist, p. 249, Lebanon- Beirut: Dar Al-mareefa for Publishing and Printing. Second Edition (1997)

⁶⁶² Mirza Al Khounsara, Kindergartens of Havens in the Conditions of Scientists and Sadat (Rodhat Al Jannat), Vol. 1 p. 88, Iran- Qum: Ismailian Library

According to the abovementioned views, Shi'ism is based on the glorification of Caliph Ali ibn Abi Talib. Shi'ism is not a religious sect, but it is a political faction as attested to by the following evidence:

1. In the reign of Caliph Abu Bakr, Shiites believe that Ali was the successor of Prophet Muhammed (peace be upon him). This political disagreement vanished when Ali recognized Abu Bakr as a caliph of Islam.⁶⁶³ Also, Ali named his three sons after the three successors as a gesture of goodwill.⁶⁶⁴

2. In the reign of Caliph Ali, Shiites did not disagree with Sunnis on the fundamentals.⁶⁶⁵ Also, Shiites did not insult the companions of Prophet Muhammad.⁶⁶⁶ Ali was so clear about Abdullah bin Saba, the one who first insulted the companions of Prophet Muhammad. Ali said, "Abdullah bin Saba was one of those who defamed Abu Bakr, Omar, Othman, and other companions."⁶⁶⁷ In addition, Abdullah bin Saba claimed "that Ali told him to do so," therefore, Ali dismissed him from Medina.⁶⁶⁸ Besides, Ali never defamed or insulted the followers of Muawiya. He just described the followers of Muawiya as "brothers who raised against us."⁶⁶⁹

3. In the reign of Caliph Muawiya, there was a dispute between Al-Hasan ibn Ali and Muawiyah about succession. However, this political issue was tackled by reconciliation. "Al-Hasan ibn Ali ibn Abi Talib reconciled with Muawiya ibn Abi Sufian under the condition of taking the Holy Quran and Sunnah as guidance for ruling."⁶⁷⁰ That is, Al-Hasan ibn Abi Talib did not defame the orthodox caliphs. This indicates that what modern Shiites do is unacceptable by the founders of old Shi'ism. Moreover, Al-Hasan bin Ali and Hussein bin Ali were in a good

⁶⁶³ Ibrahim Al Thagafi, The Raids (Al gharat), p. 302-307, Iran Edition, via:
http://www.ebookshia.com/upload/bookFiles/2011/%D8%A7%D9%84%D8%BA%D8%A7%D8%B1%D8%A7%D8%AA%D8%AC%D9%84%D8%AF_1.pdf (Last access 9 August)

⁶⁶⁴ Ali Al Arpley, Remove Sorrow to Know Imams (Kashf Al Ghomah), Vol. 2, p. 186, Lebanon - Beirut: Dar Al Adhwa for Printing, Publishing and Distribution, Second Edition (1985)

⁶⁶⁵ Mohammed Al- Muzaffar (d. 1956), History of Shia, p10, Iran - Qom: Beserti Library Publication. See, also, Sayyid Mohsen Amin, Elders of Shia, Vol. 1, p. 19, Lebanon - Beirut: Dar Al-ta'aruf Publication (1983)

⁶⁶⁶ Ibid

⁶⁶⁷ Abu Mohammed Al- Nawbakhti ,Sects of Shia, p. 19, Istanbul: Al- dawlah press.

⁶⁶⁸ Ibid

⁶⁶⁹ Abdullah bin Abi Shaybah, Classified (Al Musannaf), Vol. 8, p. 707, Lebanon - Beirut: Dar Al Fikr Publication (1994)

⁶⁷⁰ Muhammad Majlisi ,Bihar Al Anwar, Vol. 10, Part, 44, p.220 , Iran- Qom: Revival of Islamic Books for Publishing.

relationship with Muawiyah. Moreover, according to Shiite books, Muawiya used to set aside a certain amount of money for the monthly stipend of Al-Hassan and Al-Hussein.⁶⁷¹

Up to this point, Shi'ism was a political faction that struggled for legitimacy rights and demands like the Imamate. These issues have been resolved through the agreement between them. Shi'ism did not previously have different rituals and dogmas. Shiites and Sunnis performed Islamic rituals together.⁶⁷² Instead, Ali ibn Abi Talib disowned those who insulted the orthodox caliphs and the wives of Prophet Muhammad (peace be upon him).⁶⁷³ In addition, old Shi'ism did not believe the Holy Quran was interpolated.⁶⁷⁴ Old Shi'ism considered the Quran and Sunnah as fundamental and legislative sources.⁶⁷⁵

After this era, Shi'ism was influenced by the ideas of Abdullah ibn Saba, especially after the murder of Imam Al-Hussein. Abdullah ibn Saba was the first person who insulted the companions of Prophet Muhammad (peace be upon him).⁶⁷⁶ Yet, some Shiite scholars believe that Abdullah ibn Saba is a myth that never existed,⁶⁷⁷ while old ones documented in their books his existence. Some recent scholars such as Almuzafer and Sayyid Mohsen Ameen, in his encyclopedia, mentioned Abdullah ibn Saba's presence.⁶⁷⁸

⁶⁷¹ Mullah Majlisi, Evacuation of Eyes (Jala' Aliyun), Vol. 1, p. 376, Iran - Tehran: Islamic Foroshi Publication

⁶⁷² Mohamed al-Hashimi, The Grand layers, Vol. 5, p. 86, Lebanon - Beirut: Dar Al kotob Al eilmayah Publication (1990)

⁶⁷³ Al-Sharif Al-Rdhi ,Rhetorical Approach (Nahj Al- Balaghah), p. 327, Lebanon - Beirut: Dar Al- Kitab Publication (1967)

⁶⁷⁴ Abu Muzaffar Alasphraina, Glances in Religion and Discrimination Sect Survivor from the Lost Sects, p. 43, Lebanon - Beirut: Dar Al kotob Al eilmayah Publication (1983)

⁶⁷⁵ Ibid

⁶⁷⁶ Abu Mohammed Al- Nawbakhti ,Sects of Shia, p. 19, Istanbul: Al- Dawlah Press.

⁶⁷⁷ Hisham Al Kotaite, Through dialogue, I Discovered the Truth, p. 268, Global Shiites Network, via: <http://www.shiaweb.org/shia/haqiqa/pa30.html> (Last access 12 August 2016)

⁶⁷⁸ Mohammed Al- Muzaffar (d. 1956), History of Shia, p10, Iran - Qom: Beserti Library Publication. See, also, Sayyid Mohsen Amin, Elders of Shia, Vol. 1, p. 32, Lebanon - Beirut: Dar Al-ta'aruf Publication (1983)

5. 1. 1. 1. Some Beliefs of Current Shi'ism that Contradict Old Shi'ism and Sunnism

1. The belief of the incompleteness of the Quran, with the Prophet Muhammad (peace be upon him) giving part of the Sharia and leaving the rest for Ali bin Abi Talib to complete.⁶⁷⁹
2. Defaming most of the companions of Prophet Muhammad (peace be upon him). They believe that all the people apostatize from Islam after the death of Prophet Muhammed except Salman Al farisi, Abu Dar Al Ghafari, Al Miqdad Ibn Aswad, and Ammar Ibn Yassir."⁶⁸⁰ For instance, they believe that "those who curse Abu Bakr, Omar, Othman, Muawiyah, Aisha, and Hafsa after each prayer will get closer to God."⁶⁸¹
3. Rejecting hadiths narrated by the companions whom they hate and relying on texts narrated by Al-Albayt- those from family of Prophet Muhammad (peace be upon him)⁶⁸².
4. They believe that imams are better than angels and messengers all put together. Khomeini said, "Our imams reached a rank that cannot be reached by an angel or messenger."⁶⁸³ Some recent Shiite scholars even think that Al-Khomeini is better than Moses."⁶⁸⁴ They also believe that the words of imams are revelation from God.⁶⁸⁵
5. They curse and insult Sunnis and consider this an act of worship.⁶⁸⁶

⁶⁷⁹ Muhammad Majlisi ,Bihar Al Anwar, Vol. 45, Part, 89, p.29-55 , Iran- Qom: Revival of Islamic Books for Publishing.

⁶⁸⁰ Nematullah Jazairi, Al-Anwar Al-Numaniyah, Vol. 1, p. 82, Dar al qari & Dar Kufa, First Edition (2008)

⁶⁸¹ Thiqat Al-islam Al-Kulayni , Furu Al-kafi, Vol. 3, p,224, , Lebanon - Beirut: Dar Al-ta'aruf Publication, First Edition (1992)

⁶⁸² Mohammed Al- Hussein, The Origin of the Shiites and their Assets, p. 236, Foundation of Imam Ali for Publishing.

⁶⁸³ Ruhollah Khomeini, Islamic Government, p52, Lebanon - Beirut: Dar Al Fikr Publication, Third Edition, via: <http://ia800801.us.archive.org/13/items/438977843/hkouma-islamih.pdf> (Last access 30 July 2016)

⁶⁸⁴ Jawad Mughniyah, Khomeini and Islamic State, p. 107, Lebanon - Beirut: Dar El -Ilm Lilmalayin for Publishing (1979)

⁶⁸⁵ Muhammad Majlisi ,Bihar Al Anwar, Vol. 9, Part,18, p.436 , Iran- Qom: Revival of Islamic Books for Publishing.

⁶⁸⁶ Nematullah Jazairi, Al-Anwar Al-Numaniyah, Vol. 2, p. 306, Dar Al qari & Dar Kufa Publication, First Edition (2008).

Based on the foregoing, contemporary Shiite doctrine, this is in complete contrast to old Shi'ism in its early days, particularly with regard to the companions of Prophet Muhammed (peace be upon him) and his followers. Ahmed Al Wathlee, a contemporary Shiite, said,

"In my review of the history of the period from the death of the Prophet Muhammad (peace be upon him) until the end of the Caliphs, I see no attempts by the followers of Imam (Ali) to insult or to curse in any circumstance. Additionally, the majority of Shiites during the Umayyad era avoided insulting any of the companions or his followers."⁶⁸⁷

5. 1. 1. 2. The Role of the Iranian Revolution in the Spread of Hate Speech

Under the rule of Mohammad Reza Shah Pahlavi, who used violent ways to get rid of those who opposed him such as murdering, exiling, and imprisoning. Iran witnessed a state of political, social, and economic turmoil.⁶⁸⁸ One of his adversaries was Al-Khomeini who made an impact on the Persian people through his Speech until the Persian revolution took place in 1979, which he led while he was in Paris.⁶⁸⁹ This revolution sought the establishment of many principles such as the following.

a. Exporting Iran's Revolution to the whole world

In one of his Speech on February 11, 1980, Khomeini announced, "we will export our revolution to the whole world in order for everyone to know why we did this revolution. Our goal is independence and liberating ourselves from restrictions and subordination to the Western and Eastern countries."⁶⁹⁰

The Speech exporting the revolution issued by Khomeini were based on excluding all others and spreading hatred among Islamic societies; he even declared war against the whole world if it did not acquiesce to Iran's revolution. Here is his speech in February 11, 1980, the annual anniversary of the victory of the Islamic revolution:

"We are working on exporting our revolution to the whole world because it is an Islamic revolution. As long as the call of "there is no God but Allah" does not reverberate across

⁶⁸⁷ Ahmed al-Waeli, *The Identity of Shiism*, p. 24-42, Lebanon -Beirut: Dar Al Safwa Publication (1994)

⁶⁸⁸ Iran Chamber Society, *History of Iran: Mohammad Reza Shah Pahlavi*, via: http://www.iranchamber.com/history/mohammad_rezashah/mohammad_rezashah.php (Last access 1 August 2016)

⁶⁸⁹ Ibid

⁶⁹⁰ Imam Khomeini, *Exporting the Revolution as Seen by Imam Khomeini*, p. 14, Iran - Tehran: Foundation Organize and Disseminate the Heritage of Imam Khomeini, via: <http://arabic.irib.ir/Monasebat/E-khomeini/book-pdf/Tasdir-alsoura.pdf> (Last access 1 August 2016)

the globe, the conflict will continue to exist. And wherever the conflict is, against arrogant people in any spot in the world, we will find ourselves there."⁶⁹¹

Moreover, Khomeini defined Islam by saying: "Islam is the religion of militant individuals who are committed to truth and justice. It is the religion of those who desire freedom and independence. It is the school of those who struggle against imperialism."⁶⁹² He delivered a speech on the occasion of the new Persian year saying: "We have to settle accounts with the great powers and to prove to them that we deal with the international community in spite of all the obstacles that we face."⁶⁹³

Another of his Speech in July 27, 1987, stated: "I declare confidently that Islam will bring down the noses of the great powers and will facilitate and remove the obstacles that stand in its way from within and from without to the reach the important positions of the world."⁶⁹⁴

Khomeini always described the USA as "the greatest devil"⁶⁹⁵ until this description was being reiterated by the followers of the Iranian revolution. Also, he described the USA as "a terrorist state" in his will, saying:

"Our nation, indeed all Islamic nations as well as the meek and oppressed are pleased to see that their enemies, who are the enemies of Almighty God, of Islam and of the Holy Quran, are indeed savages who do not desist from committing any criminal acts to promote their malicious purposes and who are unable to tell a friend from a foe in achieving their treacherous goals. The USA is the foremost enemy of Islam. It is a terrorist state ..."⁶⁹⁶

b. Incitement against regimes of Arab countries

⁶⁹¹ Ibid

⁶⁹² Islam and Revolution, Writings and Declarations of Imam Khomeini, Translated and Annotated by Hamid Algar, Mizan Press, Berkeley Contemporary Islamic Thought, Persian Series (1981), p.28 via: <http://multiworldindia.org/wp-content/uploads/2010/05/ISLAM-and-REVOLUTION.pdf> (Last access 1 August 2016)

⁶⁹³ Imam Khomeini, Exporting the revolution as seen by Imam Khomeini, p. 14, Iran - Tehran: Foundation organize and disseminate the Heritage of Imam Khomeini, via: <http://arabic.irib.ir/Monasebat/E-khomeini/book-pdf/Tasdir-alsoura.pdf> (Last access 1 August 2016)

⁶⁹⁴ Ibid

⁶⁹⁵ Fathi Yakan, Imam Khomeini in the Face of US Demonization, via: <http://arabic.irib.ir/Monasebat/E-khomeini/Nazt1.htm> (Last access December 27, 2016)

⁶⁹⁶ Khomeini's Will, See full text of his Will via: <http://www.alseraj.net/maktaba/kotob/english/Miscellaneousbooks/LastwillofImamKhomeini/occasion/er-tehal/english/will/lmnew1.htm> (Last access 1 August 2016)

In order to achieve the goal of exporting the Iranian revolution to the world, especially the Arab countries, Iran created and managed organizations and parties inside Arab and Islamic countries. This was intended to provoke general opinion against governments.

The Amal Movement was founded by Musa al-Sadr, an Iranian citizen who graduated from Tehran University and then arrived Lebanon in 1958 and gained Lebanese citizenship. He was a student of Khomeini. He established the Amal Movement, which was an armed organization in the south, as well as in Beirut and Beqaa.⁶⁹⁷

Then, Iran managed to establish a new movement called Hezbollah. This party was established by Mohamed Hussein Fadl, Subhi al-Tufayli, Hassan Nasrallah, Ibrahim Al-Amin, Abbas Moussawi, Naiem Qassem, Zoheir King, Mohamed Yazbak and Ragheb Harb.⁶⁹⁸ Those founders are the leaders of the Amal movement. There was a conflict between the rest of the leaders of the Amal movement and the Hezbollah movement upon extending the influence of the Shia in Lebanon. Hezbollah was able to win in the end. Its supporters increased because of the generous aid coming from Iran for the Lebanese.⁶⁹⁹ It is worth mentioning that Hezbollah had announced, in its pact, its complete ignorance of most of the sections of Lebanese society, which included Christians and Sunni Muslims, since Hezbollah defined itself as follows:

“We are the sons of the Hezbollah nation, triumphant from the beginning, thanks to God. Iran has now been reestablished as the central Islamic country of the world. We obey the orders of one wise and just leader, represented in the ‘Wali al-Faqih,’ who is the flawless master, presently embodied in the leader, Ayat Allah, Ayatullah Sayyid Imam Ruhallah Musawi Khomeini, ‘Protected by Allah.’ He is the author and source of the nation’s great renaissance.”⁷⁰⁰

Ibrahim Al-Amin (a leader in Hezbollah) expressed his orientation in 1978, Saying, "We do not say that we are part of Iran; we are Iran in Lebanon and Lebanon in Iran."⁷⁰¹ Hezbollah and the Amal movement followed the same way of Iran in spreading hatred and hostile speech against

⁶⁹⁷ Ghassan al-Izzi, *Hezbollah From the Ideological Dream to the Political Realism*, p.32, Kuwait: Dar Qirtas for Publishing (1998), See, also, Abdullah Al-ghareeb, *Amal and the Palestinian Refugee Camps*, p 179, (1986) via: <http://ia802304.us.archive.org/2/items/waq17261/17261.pdf> (Last access 1 August 2016)

⁶⁹⁸ Ibid

⁶⁹⁹ Ali Al-Sadig, *What Do We Know about Hezbollah*, p. 21, Egypt - Ismailia: Imam Bukhari Library (2006)

⁷⁰⁰ Abdel Shafiq, *Hezbollah: Different Vision*, p. 226-227, Jordan - Amman: Dar Al- karmal for Publishing (2008)

⁷⁰¹ Ali Al-Sadig, *What Do We Know about Hezbollah*, p. 22, Egypt - Ismailia: Imam Bukhari Library (2006), Quoting Al-Nahar Newspaper in: 03-05-1987

others. The following chapter will discuss Hezbollah's discourses and subject them to Islamic law in order to know whether they call for hatred or just fall under freedom of speech.

The Shia Houthi Ansarullah Movement is also considered one of the organizations founded by Iran in Yemen. Hussein Al Houthi, the first leader of this movement, stated that: "All those who were against the Islamic revolution in Iran during the days of Khomeini suffered terribly from one condition to another."⁷⁰² It was noted that those groups founded by Iran are in communication and working hard to achieve Iran's political interests. Moreover, Hussein Al Houthi describes Hassan Nasrallah saying, "Nasrallah is considered an important and powerful man who has a sophisticated global leadership (style)."⁷⁰³ The next section includes an analysis for some of Hezbollah's Speech under the rules of Islamic law.

It has also been observed, that the Iranian revolution in Iran, and its organizations and allies outside Iran, played a serious role in spreading hostile speech. The terrorist acts that occurred, were affected by the contents of the Iranian revolution, calls for the hatred of the USA and its allies and its relentless pursuit to export the Iranian revolution. Below are listed some effects of the Iranian revolution's hostile speech:

a) After the religious and political figures in Iran established the principle of hostility towards America, more specifically through the national hatred speech, a group affiliated with Hezbollah exploded a car bomb loaded with 2,000 pounds of explosives in front of the U.S. embassy in Beirut in 18/4/1988 that caused a mass of destruction. This terrorist act led to the killing of 52 of the Embassy personnel and bystanders, with more than 100 cases of injuries among the Lebanese and Americans.⁷⁰⁴

b) The bombing of U.S. Marine headquarters in Beirut

⁷⁰² Hussein Al-Houthi, The Risk of Entering the United States to Yemen: Part of a Series of Lectures of the Guidance of the Holy Quran (Quoting from his cassette tapes, Prepared by Saleh Abu Giddenh), p.3, via: <http://oshag.yoo7.com/t105-topic> (Last access 1 August 2016)

⁷⁰³ Hussein Al-Houthi, The Responsibility of Religious Science Students: Part of a Series of Lectures of the Quidance of the Holy Quran (Quoting from his Cassette Tapes, Prepared by Saleh Abu Giddenh), p.14, , via: <http://oshag.yoo7.com/t105-topic> (Last access 1 August 2016)

⁷⁰⁴ Embassy of the United States Beirut- Lebanon, 30th Anniversary of the U.S Embassy Beirut Bombing, via: http://lebanon.usembassy.gov/pr_041813.html (Last access 2 August 2016)

In 1983, with the escalation of hostile speech against America from Iran, an Iranian man called Ismael Askary, who belonged to the revolutionary guards, carried out a suicide operation. The operation was masterminded by Iran on the headquarters of U.S. Marines. This terrorist act caused the death of 241 persons and the injury of 100 American Marines and civilians.⁷⁰⁵

c) Riots during the Hajj season of 1986

Iran and its allies, such as Hezbollah, kept sending incitement and hate speech against The Kingdom of Saudi Arabia, which led to riots, vandalism, and sectarian cheers during the Hajj season in Mecca of 1987. Those terrorist acts resulted in the killing of 300 people.⁷⁰⁶

d) Residential tower bombings in al Khobar, a town in the Kingdom of Saudi Arabia in 1996. The continuity of hostile speech towards the USA and the Kingdom of Saudi Arabia from the religious and political leaders in Iran and its ally Hezbollah, led to the crime of bombing the residential towers in the town of al Khobar in 1996. This act caused the killing of 120 persons including 19 American soldiers.⁷⁰⁷

There are many examples of the effects of hate speech coming from proponents of the Iranian revolution, namely Hezbollah, who have participated in terrorist acts in numerous countries, such as France, Kuwait, Venezuela, and Bahrain. These countries witnessed terrorist acts such as burning embassies, assassination attempts, kidnapping diplomats, and the bombing of oil installations.

To sum up, Iran played a serious role in spreading hate speech and supporting the terrorist groups that always spew hate speech. Iran always embraces the leaders of those terrorist groups

⁷⁰⁵ The Daily Signal, The 1983 Marine Barracks Bombing: Connecting the Dots, via: <http://dailysignal.com/2009/10/23/the-1983-marine-barracks-bombing-connecting-the-dots/> (Last access 2 August 2016). See, also, Kingdom of Saudi Arabia Ministry of Foreign Affairs, Official Source at the Foreign Ministry: Iran Has Established a Record of Spreading Sedition, Unrest and Chaos in the Region, via:

<http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/MinistryNews/Pages/ArticleID2016119214054459.aspx> (Last access 2 August 2016)

⁷⁰⁶ Kingdom of Saudi Arabia Ministry of Foreign Affairs, Official Source at the Foreign Ministry: Iran Has Established a Record of Spreading Sedition, Unrest and Chaos in the Region, via: <http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/MinistryNews/Pages/ArticleID2016119214054459.aspx> (Last access 2 August 2016)

⁷⁰⁷ Ibid

and provides a suitable atmosphere for spreading their hateful speech as well as providing a sanctuary for Al-Al-Qaeda leaders after the attacks of September the eleventh.

Following this review, we can understand the Shiite sect in terms of its origins and the methodology of the early imams and their followers as a doctrine that is based on the glorification of Caliph Ali over all successors. Shi'ism sees Ahl al-bayt as the natural successors. In addition, they defend the view of postponing the punishment of Othman's killers. Ergo, old Shi'ism goes hand in hand with Sunnism as they both consider the Holy Quran and Sunnah the major sources of Sharia. Therefore, the definition of hate speech from the perspective of Islamic Law complies fully with the original views of Shi'ism since this definition leans on fundamental sources for Islamic laws.

5. 1. 2. Concerning Sunni Doctrine

The beliefs and doctrines of Sunnis have not changed throughout history. However, we can say that it has had times of weakness followed by periods of strength, as was the case with what Omar bin Abdul Aziz did at the end of the first century, and Ibn Taymiyyah at the end of the seventh century. Also, Muhammad Ibn Abd al-Wahhab tried to renew it in the twelfth century.⁷⁰⁸ Sunni doctrine is distinctive by its schools of law that enrich the Islamic library. This section will not discuss the historical development of these schools in detail; rather it will provide a definition of Sunni doctrine and its prominent beliefs and remarkable people. It will shed light on the term "Wahabism" because this term grows a little confusing among Muslims and non-Muslims.

5. 1. 2. 0. Definition of "Sunnah"

The definition for the term Sunnah provided in the first chapter was "the sayings, actions and explicit and implicit approvals of the Prophet Muhammad (peace be upon him)."⁷⁰⁹ According to the definition mentioned above, the term "Sunnah" is based on the words and acts of the prophet Mohamed (peace be upon him) and it is considered the second source of legislation; however, Sunni doctrine is derived from the linguistic meaning not the legal meaning to mean "approach,"

⁷⁰⁸ Abdel Al Saidi, *Renewers in Islam from the First Century to the Fourteenth 100 AH 137 AH*, Arts Library for Printing, Publishing and Distribution, First Edition (1998)

⁷⁰⁹ Saif A-Din Al-Amidi, *Al-Ahkam fi Usul Al-Ahkam (Assets of Provisions)*, Vol: 1, p. 169, Islamic office, Lebanon, Beirut (1982), Abd al- Wahhab Khallaf, *Ilm Usul al-Fiqh (Science of Jurisprudence origins)*, 10th edition, Dawa Office Publishing & Distribution, p. 36

or "way."⁷¹⁰ This term was used by the prophet Mohamed (peace be upon him) to refer to those who stick to his teachings as he said, "You must keep to my Sunnah and to the Sunnah of the Khulafa ar-Rashideen (the rightly guided caliphs), those who guide to the right way."⁷¹¹ Accordingly, Sunni doctrine can be defined as, "a doctrine which bases its legislation on the holy Quran, the Sunnah, and the teachings of the companions'."⁷¹²

5. 1. 2. 1. The Sunni Beliefs

Therefore, based on the Sunni beliefs and their commitment to the Islamic sources of legislation, Sunni doctrine forms its own beliefs, which differ from the current Shiite doctrine, while it agrees with old Shi'ism. Some of these Sunni beliefs are:

1.The Sunni approach towards the companions, including prophet Mohamed's wives:

a. Sunnis respect and revere the Companions; they see them as being the best people after the Messenger of Allah. They agree upon loving them and consider differing from them as blasphemy,⁷¹³ as the prophet Mohamed said,

"Do not revile my Companions."⁷¹⁴

b. They believe that amongst the companions Abu Bakr is viewed as the most superior, then Omar, then Uthman, then Ali, the fourth and last of the rightly guided caliphs.⁷¹⁵

⁷¹⁰ Ibn Manzur, Lisan Al-Arab (The Arab Tongue), Volume.12, p. 281 Dar Sader Publication; 3rd Edition (2000)

⁷¹¹ This hadith was narrated by Abu Dawud no. 4590, book. 41, see Sulaiman Ibn Al Aash'ath, Sunan Abu Dawud, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984. Also, it was narrated by At-Tirmidhi no. 40, Muhammad Bin Eisa, Jami' At-Tirmidhi, via: <http://sunnah.com/nawawi40/28> (Last access 9 August 2016)

⁷¹² Abdullah Al Athari, Summary of the Sunni Sect, p. 36, The Ministry of Islamic Affairs, Endowments, Call and Guidance - Saudi Arabia, First Edition 2003.

⁷¹³ Elite Group of Scholars, Origins of Faith in the Light of the Quran and Sunnah, p. 271-277, King Fahd Complex for the Printing of the Holy Quran, the City of the Prophet, Saudi Arabia (2000)

⁷¹⁴ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 720, Vol. 2, (Muhammad Muhsin Khan trans.), Published by: Darussalam, Riyadh, 1997. See, also, Imam Muslim, Sahih Muslim, Hadith Number. 1082, Vol. 2, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁷¹⁵ Ibn Uthaymeen, Doctrine of the Sunnis and the Community, p. 29-30, Saudi Arabia - Riyadh: Cooperative Office for Dawah and Guidance in Sultanah, Fourth Edition (2001)

c. The Sunni doctrine agrees on respecting and revering Ahl al-Bayt (People of the House of the Prophet Muhammad (peace be upon him)). This is a requirement to be a Muslim and true believer.⁷¹⁶

d. Sunnis respect Ali Ibn Abi Talib, but they do not accept equalizing or prioritizing him over the prophet Mohamed (peace be upon him). Also, they do not believe that Ali received revelation from Allah because revelation stopped after the death of the prophet Mohamed (peace be upon him).⁷¹⁷

e. They prefer to be neutral when it comes to the conflicts among companions.⁷¹⁸

2. The Sunni approach towards the Quran is that:

They believe that the Quran has never changed since it was revealed.⁷¹⁹ All Muslims agree upon this fact except some late Shiites as has previously been alluded to.

3. The Sunni approach toward Sunnah (Hadith) is:

They believe that the hadiths were narrated and reported after the prophet (peace be upon him) are acceptable only if they are authentic.⁷²⁰ They do not refuse the hadiths that disagree with what Ali Ibn Abi Talib or a member of Ahl al-Bayt has narrated, in stark contrast to the beliefs of some Shiites.

4. The Sunni approach towards issuing descriptions (blasphemy, or disbelievers) against others is:

a. First and foremost, all non-Muslims, whether Christians or Jews are named blasphemers because non-Muslim means someone who disbelieves or blasphemes. According to the holy

⁷¹⁶ Elite Group of Scholars, *Origins of Faith in the Light of the Quran and Sunnah*, p. 280-281, King Fahd Complex for the Printing of the Holy Quran, the City of the Prophet, Saudi Arabia (2000)

⁷¹⁷ Ibid

⁷¹⁸ Ibn Uthaymeen, *Doctrine of the Sunnis and the community*, p. 30-31, Saudi Arabia - Riyadh: Cooperative Office for Dawah and Guidance in Sultanah, Fourth Edition (2001)

⁷¹⁹ Ibid, p. 19

⁷²⁰ World Assembly of Muslim Youth, *Doctrine of the Sunnis*, via: <http://www.saaaid.net/feraq/mthahb/0.htm> (Last access 9 August 2016). See, also, Ibn Uthaymeen, *Doctrine of the Sunnis and the community*, p. 20, Saudi Arabia - Riyadh: Cooperative Office for Dawah and Guidance in Sultanah, Fourth Edition (2001)

Quran: "O People of the Book (Christians and Jews)! Why reject (blaspheme) ye the Signs of God, when God is Himself witness to all ye do?"⁷²¹

This categorization is just regards religious matters. It does not forbid Muslims from dealing with non-Muslims. Rather, Muslims are encouraged to co-exist peacefully with others. According to the Quran:

"God forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them."⁷²²

Those who commit crimes without real knowledge of the provisions of Islam are not classified under the rule of blasphemy from the perspective of Sunni doctrine.⁷²³ There are some conditions that must be met before labelling a person as a disbeliever. For instance having full knowledge or insisting on doing that crime, etc.⁷²⁴ Also, the Sunni sect does not label any group as blasphemers or disbelievers. Sunnis only label actions and words that violate the five Islamic pillars in any way.⁷²⁵ For instance, they do not say, "Khalid is a blasphemer"; they only label actions and sayings. However, in a few cases, the Sunnis have ex-communicated some people after having valid and strong evidence for the conditions above.⁷²⁶ In addition, the Sunnis labels any saying or action that violates: the Holy Quran; Sunnah; Allah; Prophet Muhammad (peace be upon him); the companions; the five Islamic pillars; cursing the companions or the wives of Prophet Muhammad (peace be upon him) as an act of blasphemy in the eyes of the Sunnis.⁷²⁷ Also, believing that Imams like Ali ibn Abi Talib are better than prophets is blasphemy from a Sunni perspective.⁷²⁸ It is noted that the current Shiite beliefs, as already mentioned, clearly violate the five Islamic constants. Thus, the Sunni sect labels their actions as actions of blasphemy, whereas the Shiite sect labels Sunnis as disbelievers because they do not curse Abu Bakr, Omar, Othman,

⁷²¹The Quran, verse (3:98)

⁷²² The Quran, verse (60:8)

⁷²³ Saeed Alqahtani, *The Issue of Blasphemy between the Sunnis and the Misguided Sects in the Light of the Quran and Sunnah*, p. 34 & 58-59, Jeraisy Corporation for Distribution and Advertising, 1996.

⁷²⁴ Muhammad Ibn Abd Al-Wahhab, *Reveal the Suspicions*, p. 39-40, Dar Al Iman, Alexandria.

⁷²⁵ Ibn Taymiyyah, *Majmu 'Fatawa*, Vol. 35, p. 165, King Fahd Complex for the Printing of the Holy Quran, the City of the Prophet, Saudi Arabia (1995)

⁷²⁶ Ibid.

⁷²⁷ Mohammed Al Wahaibi, *The Things that Invalidate The Belief and Controls of Blasphemy*, p. 209, Dar Al-Muslim for Publishing, Saudi Arabia.

⁷²⁸ Saeed Alqahtani, *The Issue of Blasphemy between the Sunnis and the Misguided Sects in the Light of the Quran and Sunnah*, p. 77-85, Jeraisy Corporation for Distribution and Advertising, 1996

and other companions.⁷²⁹ Besides, Sunnis do not believe that imams are better than prophets. The Sunni sect does not label the beliefs of old Shi'ism as actions of blasphemy since they did not violate the constants of Islam. It was just a mere political disagreement concerning succession after Prophet Muhammad (peace be upon him). There were not any kind of religious differences between Old Shi'ism and Sunnism.

5. 1. 2. 2. The names of the Sunni Doctrine

This doctrine has several old and new names, including:

5. 1. 2. 2. 0. Sunnis and the Main Body of Muslims

Main body of Muslims (Jama'ah) means what people agree upon based on the sources of legislation,⁷³⁰ according to the Sunnah, the Prophet Mohamed (peace be upon him) said: "Adhere to the Jama'ah, beware of separation."⁷³¹ Also, Hudhaifa bin Al-Yaman said:

"The people used to ask Allah's Messenger about the good but I used to ask him about the evil lest I should be overtaken by it. So I said, 'O Allah's Messenger! We were living in ignorance and in a bad atmosphere, then Allah brought to us this good (i.e., Islam); will there be any evil after this good?' He said, 'Yes.' I said, 'Will there be any good after that evil?' He replied, 'Yes, but it will be tainted (not pure.)' I asked, 'What will be its taint?' He replied, '(There will be) some people who will guide others not according to my tradition? You will approve of some of their deeds and disapprove others.' I asked, 'Will there be any evil after that good?' He replied, 'Yes, (there will be) some people calling at the gates of the (Hell) Fire, and whoever will respond to their call, will be thrown by them into the (Hell) Fire.' I said, 'O Allah's Messenger! Will you describe them to us?' He said, 'They will be from our own people and will speak our language.' I said, 'What do you order me to do if such a state should take place in my life?' He said, 'Stick to the group of Muslims and their Imam (ruler).'_ I said, 'If there is neither a group of Muslims nor an Imam (ruler)?' He said, 'Then turn away from all those sects even if you were to bite (eat) the roots of a tree till death overtakes you while you are in that state.'"⁷³²

That is why Sunni doctrine is called Ahulu Sunnah Wal Jama'ah (Sunnis and the group of Muslims).

⁷²⁹ Ibid, p. 77

⁷³⁰ Nasser Abdul Karim, Total Origins of Sunnis in Belief, p. 6, Saudi Arabia - Riyadh: Dar Al Watan for Publishing, Second Edition (1992)

⁷³¹ This Hadith narrated by At-Tirmidhi no. 2165, Vol. 4, Book. 7, see Muhammad Bin Eisa, Jami' At-Tirmidhi, via: <http://sunnah.com/tirmidhi/33/8> (Last access 10 August 2016)

⁷³² This Hadith narrated by At-Tirmidhi no. 206, Vol. 9, Book. 88, see Muhammad Bin Eisa, Jami' At-Tirmidhi, via: <http://sunnah.com/bukhari/92/35> (Last access 10 August 2016)

5. 1. 2. 2. 1. Salafism

Salafism was not a doctrine or movement in the early centuries of Islam; rather, it was just a description for the first three generations as Prophet Muhammad (peace be upon him) said, “The people of my generation are the best, then those who follow them, and then those who follow them.”⁷³³ Accordingly, anyone who follows the path of those three generations is regarded as a Salafist. Sheikh Ibn Uthaymeen explains that,

"Anyone who adheres to the way of the prophet and his companions is a Salafi. Adopting Salafism as a special approach to mislead those who are following different approaches and considering it as a political ideology is undoubtedly the opposite of real Salafism."⁷³⁴

Nowadays, we witness the rise of some Islamic groups that call themselves Salafi movements⁷³⁵. This contradicts the true nature of the term Salafism. In this chapter, we will be focusing on those so-called Salafi movements.

⁷³³ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 820, Vol. 3, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

⁷³⁴ Ibn Uthaymeen, The Open Door Meeting, Part. 57, p. 15, Islamic Website, via: <http://shamela.ws/browse.php/book-7687#page-1712> (Last access 11 August 2016)

⁷³⁵ For example: The Saudi Salafist group was founded after the year 1965 by Juhayman Al-Otaybi, Suliman Shetewi, Naser Alharbi and Saad Al-Tameemi. The purpose of this group was to give advocacy, counseling, and reminders of religious duties in mosques and public places around the Kingdom of Saudi Arabia. As a result of the spread of audiobooks in Saudi society, especially amongst youth, the group was greatly affected by Sheikh Abdul-Hamid Kishk's audiotapes. They were also affected by his description of the Muslim Brotherhood in Egypt and the oppression they had been subjected to under the government of Gamal Abdel Nasser. Such discourses established that Islam has many enemies. Kishk also said that although the government claimed to be Islamic it did not apply the Islamic Sharia.

Under these important historical developments, Juhayman started to spread his ideas that rejected renewal. He used to deliver his Speech in some small mosques in Medina. His discourse was against the ruling regimes, as they did not apply the Islamic Sharia. He also demanded the abolition of the schools in their current state claiming that students must study in traditional ways of the previous generations. Furthermore, he severely criticized the usage of the media in that time like radio and television and rejected photography in all its forms. Moreover, he and his group decided to abandon everyone and be isolated from the society because he saw it as an invalid society. One of those discourses at that time is his speech that states:

"The kingdom of Saudi Arabia is united among Muslims, Christians and polytheists, and recognized for each one on its religions and fought against all of the otherwise."

He often described the religious figures in Saudi Arabia as dependent and subjected to the government's authority. Those discourses are considered a turning point in Saudi society that always considered the religious figures as role models as well as being fully independent and having a great effect on the Saudi government's decisions. It is noticeable that Juhayman not only was greatly affected by the Salafist group in Kuwait but also that the Salafist group was participating in printing his incendiary books and smuggling them illegally into Saudi Arabia. The Salafist group was influenced by many groups such as the Muslim Brotherhood group in Egypt and the Tablighi group. However, the Salafist group rejected the method of the Tablighi group, as they were not interested in monotheistic issues. In contrast, they remained greatly influenced by the Muslim brotherhood's methods. An in-depth reading of the history of this small, strict religious group reveals that the Saudi government has maintained an official

5. 1. 2. 2. Wahhabism

"Wahhabism" is not a new religious cult, but is named after a Sunni scholar Muhammad ibn Abd Al-Wahhab. He encouraged a return to the correct practice of the fundamentals of Islam as embodied in the Quran and in the life of the Prophet Muhammad (peace be upon him) in the Arabian Peninsula in the 7th century AD. Muhammad ibn Abd Al-Wahhab and his followers did not call themselves by the name "Wahhabism." In fact, those who opposed Muhammad ibn Abd Al-Wahhab and his followers labeled their movement as Wahhabism.⁷³⁶ According to the Dictionary of Islam, "Wahhabi. A sect of Muslim revivalists founded by Muhammad, son of 'Abdu'l-Wahhab, but as their opponents could not call them Muhammadans, they have been distinguished by the name of the father of the founder of their sect, and are called Wahhabis."⁷³⁷ King Abdul Aziz, the founder of the kingdom of Saudi Arabia, has stated the kingdom's attitude toward "Wahhabism" in his speech in Mecca on Wednesday, 03/27/1933:

"They refer to us as followers of Wahhabism, implying that we represent a divergent approach to Islam. This is a falsehood perpetuated by people with special agendas. We are not following a new approach or dogma. Muhammad Ibn Abd Al-Wahhab did not come up with new notions. Our belief is the belief of the righteous Salaf that follow the Quran and Sunnah; we respect the four imams of the Sunni Schools. Also, we neither distinguish Imam Malik from Imam Al-Shafi'i nor Imam Ahmed from Abi Hanifa. They are all equal in our eyes. And we respect them all."⁷³⁸

Shiites always accuse Imam Muhammad Ibn Abd Al-Wahhab of his hatred to Ahlul Bait. So, too, he was labelled of accusing his opponents of apostasy.⁷³⁹ Therefore, it is necessary to explore his own beliefs through his works to debunk such allegations.⁷⁴⁰ Consequently,

silence towards the group's discourse although it was out of the ordinary and was issued to violate the rights of the others and oppose any progress on development. The most popular means to spread the Salafist message was through Speech delivered in mosques after prayers as well as the distribution of books and publications. The results of those hostile discourses were tragic for all Muslims led by Juhayman when he entered the grand mosque in Mecca (Al-Haram Al-Sheriff) and occupied it for 13 days, besides committing mass genocide and desecrating the Holy place. For more Information, See Nasser Al-Hzeemi, Days with Juhayman: I was with the Salafist Group, Lebanon- Beirut: Arab Network for Research and Publishing (2011)

⁷³⁶ Nasser Al aql, Islamic, not Wahhabism, Dar Knoz Ishbilila for Publishing and Distribution (2004)

⁷³⁷ Thomas Patrick, Dictionary of Islamic, p 659, Munshiram Manoharlal Publishers Pvt. Ltd, 1995

⁷³⁸ Abdul Rahman Al Dosari, Doctrinal Fanaticism and its Security Implications, p. 86, Naif Arab University for Security Sciences (2013), Quoting: Al-khamees Mohammed, King Abdulaziz Care of Belief, p. 20, Saudi Arabia - Riyadh: Secretariat Library to Celebrate a Hundred Years (1998)

⁷³⁹ Assad al-Qasim, Caliphate and Imamate crisis, and Its Contemporary Effects, p. 263, Global Shiites Network, via: <http://shiaweb.org/books/khelafa/index.html> (Last access 11 August 2016)

⁷⁴⁰ Muhammad Ibn Abd Al-Wahhab, Personal Messages, p. 8, the University of Imam Muhammad bin Saud, Riyadh, Saudi Arabia (1990), For example:

Wahhabism is a call for renewing Islam and rectifying some misconceptions. It is not a new doctrine or approach. It is just a path for returning to the correct practice of Islam. Moreover, what Shiites incite about him is not based on clear-cut evidence. Abdul Rahman Al-Ruwaished considers that "Salafi Wahhabism idea is not a new religion or doctrine as rumored by its opponents. It is a body of sincere efforts that advocate reforming and purifying Islam from anything that is not authenticated by the Quran or Sunnah."⁷⁴¹

5. 1. 2. 3. The Role of the Saudi Islamic awakening movement in the Spread of Hate Speech

Affected by the Iranian revolution, the Saudi Islamic Awakening movement, called in Arabic language the *Assahwa* movement, appeared after a short period after the attack on the Grand Mosque in Mecca.⁷⁴² According to Ghazi Al Gosaibi, this movement could be defined as “a

1. He said;

"I believe in what the Sunnis and their community believe in; I believe in Allah, his Angels, his Books, and his Messengers and the Hereafter and the good and evil fate [ordained by your God]." p.8

Conspicuously, Muhammad Ibn Abd Al-Wahhab belongs to Sunnism. This demonstrates that "Wahhabism" is not a new doctrine; it is just a continuous practice of Sunni doctrine.

2. He said;

"Whatsoever is mentioned about me of excommunicating people based on conjecture or loyalty or ignorance that is not based on an argument is a great falsehood stimulated by heinous individuals who aim at getting people away from Islam and the messenger's teachings." P. 25

He also said,

"The claims that I excommunicate people generally is a falsehood." P. 101

This confirms that he was not excommunicating merely for opposition or objection. He was counting on evidence from Sunni doctrine for such matters.

3. He said;

"Ahl al- Bayt are favored by God with some privileges. It is not allowed by any means to ignore such merits, claiming that it is part of the oneness of God (Tawhiid), whereas it is a kind of extremism." P. 284

He also said,

"God accepted the covenant of the prophets who lived until the time of Prophet Muhammad, expecting that they would support him. How about our nation? We must believe and support him. No one can replace one another, especially Ahl al- Bayt who belongs to messenger Muhammad." P. 312

4. He said;

"Ali Ibn Abi Talib was closer to the truth than were Muawiya and his followers, but still both are Muslims and have faith in Allah." See Muhammad Ibn Abd Al-Wahhab ,A Summary of Biography of the Prophet, p. 317, Saudi Arabia - Riyadh: The Ministry of Islamic Endowments Da'wah and Guidance Affairs (1997)

This shows Abd Al Wahab's sincere love to ahl al- Bayt, unlike what Shiites accuse him of.

⁷⁴¹ Abdul Rahman Al-Ruwaished, Movement of Thought and the State, p. 10-11, Dar Al Uloom for Printing, Cairo, Second Edition (1978)

⁷⁴² Saud Al-Qahtani, Islamic Awakening Arabia, p. 2, Dar Al Nadwa: Electronic Library (2003) via: http://kenanaonline.com/files/0098/98064/saudi_sahwa_Qahtani.pdf (Last access 2 August 2016). See, also, Ghazi Al Gosaibi, Until there is no more Tumult or Oppression, p. 88-89, Dar Al Nadwa: Electronic Library, via: http://www.gulfkids.com/pdf/C_Fetnaah.pdf (Last access 2 August 2016)

movement that targets access to rulers headed by jurists, leaders, and politicians following the tactics of political opposition and adopting the Islamic revolution in Iran as a model."⁷⁴³

During the Iraqi aggression against Kuwait in 1990 and the occupation of some northern cities of the Kingdom of Saudi Arabia, Osama bin Laden offered to King Fahd of Saudi Arabia and Jaber Al-Sabbah, the prince of Kuwait, the Jihad services of his followers to protect Saudi Arabia and Kuwait from the Iraqi aggression. However, the Saudi government realized how critical the situation was and rejected bin Laden's offer. The government asked for the assistance of the American and the Allied foreign forces and allowed them access to Saudi Arabian lands after the agreement of the senior Saudi scholars headed by Sheikh Abdul Aziz bin Baz. This decision angered bin Laden and his followers and others from the Youth Awakening Group. Only then did the march of extremism and atonement begin, as they believed that the presence of foreign non-Muslim forces in Saudi Arabia, the home of the two holy mosques, was a violation to the holy places.⁷⁴⁴ Bin Laden's hostile discourse spread openly against the Saudi government for its dependence on the American soldiers.

The Saudi government decided to exile Osama bin Laden to Sudan and withdrew his nationality, and his family disowned him in 1994.⁷⁴⁵ This chapter will include a discussion of some Speech of this terrorist group and their effect on many terrorist acts, especially with regard to the events of 11 September.

Moreover, the actions of bin Laden, the hate speech of the awakening movement, and Al Al-Qaeda had a hugely negative effect on the reputation of Islam. It also caused a return of Islamophobic groups that spread their hate discourse against all Muslims based on the actions of terrorist groups.

It is noted that the Gulf war's events of 1990 showed various examples of The Awakening discourse that was anti-state in its sentiments, skeptical of religious legitimacy, and that soon was to escalate to an unprecedented degree. Ghazi Al Gosaibi said:

⁷⁴³ Ghazi Al Gosaibi, *Until there is no more Tumult or Oppression*, p. 70, Dar Al Nadwa: Electronic Library, via: http://www.gulfkids.com/pdf/C_Fetnaah.pdf (Last access 2 August 2016)

⁷⁴⁴ Gate of Islamist Movements, Osama bin Laden, via: <http://www.islamist-movements.com/26612> (Last access 2 August 2016). See, also, Qayati Mohammed, Osama bin Laden and Al Al-Qaeda's bloody history, Arab News Network, via: <http://www.annetv.tv/new/showsubject.aspx?id=23276#.V6EWl2grJeU> (Last access 2 August 2016)

⁷⁴⁵ Ibid

"In those hard moments (the Gulf war 1990) the political jurist Safar Al-Hawali issued an audiotape called (flee to God). In that tape he explains that the troops we asked for assistance are no less dangerous than the enemy, which was only hours away from Dhahran. This tape was a source of strife as it caused a huge instability and cracked the heart of the consensus. No sooner had the political jurist Salman Al-Awdah issued another audiotape called (the reasons of the states' fall) in which he claimed that asking for the assistance of non-Muslims was a major cause of the states' fall. Then, the door opened and the audiotapes, Speech, and publications kept coming in succession on an unprecedented scale in our society as it had never witnessed the class of political jurists before."⁷⁴⁶

Hate speech reached the peak of hatred, hostility, and plain skepticism in religious figures such as the Saudi senior scholars and disregarded the state of war. Safar Al-Hawali continued his hostile discourse, saying in his book (revealing the sorrow of the nation's scholars) which was published at the time of the Gulf war:

"Infidelity and atheism appeared in our newspapers, evil overspread in our gatherings, fornication was called for in our media and television and usury was allowed until the banks of infidel states became a few steps away from God's holy place... As for resorting to Sharia, that old advocacy, is no longer there except for what postural juggernaut owners call personal status and some limits for security... all this led to persistent shame and severe suffering as nobody would honor those who God humiliated."⁷⁴⁷

Obviously, this group was trying to import the Iranian experience to Saudi lands but in accordance with the Sunni perspective.⁷⁴⁸ The Awakening discourse depended on the religious side, as Saudi society is naturally conservative and sympathizes with anyone speaking in the name of religion.⁷⁴⁹ After the Saudi government had taken strict procedures to prevent hate (awakening)

⁷⁴⁶ Ghazi Al Gosaibi, Until there is no more Tumult or oppression, p. 67, Dar Al Nadwa: electronic Library, via: http://www.gulfkids.com/pdf/C_Fetnaah.pdf (Last access 2 August 2016)

⁷⁴⁷ Safar al-Hawali, Revealed Sorrow for the Nation's Scientists, p. 61, Saudi Arabia - Riyadh, Dar al-Hikma for Publishing 1991

⁷⁴⁸ Ghazi Al Gosaibi, Until there is no more Tumult or Oppression, p. 74-77, Dar Al Nadwa: Electronic Library, via: http://www.gulfkids.com/pdf/C_Fetnaah.pdf (Last access 2 August 2016)

⁷⁴⁹ In one of his lectures called (why do we call America) Safar Al-Hawali says that

"We don't believe in nationality as it is an ignorant fanaticism that the prophet Mohamed (peace be upon him) ignored."

The Awakening speech followed the steps of the Iranian revolution in pressing charges against all those against them. Furthermore, they spread publications charging some Saudi figures as being Masonic, secularists, and American agents. The Awakening discourse depended on directing its discourse to the soldiers and officers in an attempt to win their loyalty until they turn against the Saudi government. Moreover, Salman Al-Awdah issued an audiotape called (a message to the security man) in which he explains that the security man must stand up with the religion and not with the ruler. In that tape, he emphasized that "attacking the religion is the greatest crime and taken the number 1, for which the security man must exert great efforts to stop all those who practice it."

speech, Saad Alfaqih and Mohamed Almasaary went to London as representatives of the Awakening's discourse. They founded a committee to defend legal rights in the Kingdom of Saudi Arabia in 1993 before escaping to London in 1994.⁷⁵⁰ This committee relied mainly on blasphemy all against their opinions and orientations. Almasaary said:

"All those who cooperated with the infidels in imposing the blockade on the property are disowned from Islam. They are considered apostates who must be killed, their money taken, mandates dropped, and marriages annulled, and we dare bin Baz to say otherwise."⁷⁵¹

Obviously, this group was taking a hostile line with all Islamic and global states. They adopted several media outlets in spreading their strict discourse such as the Islamic renewal radio.⁷⁵²

With the beginning of the year 1996, the disagreement between Alfaqih and the other members of this committee started. As a result, they issued their decision number 44 in 4/3/1996, which ended up with dismissing Saad Alfaqih from the committee.⁷⁵³ In the same year, the Islamic reform movement was founded by Alfaqih. The central disagreement between Alfaqih and the committee was that he thought the discourse should concentrate on attacking the Saudi regime. However, Almasaary and the other members of the committee saw that the discourse must be of a global nature that discusses all global issues including the Kingdom of Saudi Arabia.⁷⁵⁴

As a result of the increase of this discourse and its negative effect on Saudi society's reputation, the Saudi government decided to stop their discourse by imprisoning this group. However, through years of advising the Awakening group we found a change in the discourse as it moved toward tolerance and accepting others as well as caring for the common interests of society. For instance, Salman Al-Awdah said,

"We believe that Islam is the rightful choice, however, it is not possible to expect the whole world to be Muslims. We cannot make it and it is not in our Sharia to force the others to adopt our own principles."

He also said, "We call for a serious openness with the west towards Islam, viewing its legislation, dealing quietly with its reality and making a serious revision in their attitude towards it. We also call for opening a channels of communication between the educated elites representing the broad stream of Islam and the scholars and the decision-makers in the West." See Saud Abdullah Al-Qahtani, *Islamic Awakening Arabia*, p. 15, Dar Al Nadwa: Electronic Library (2003) via:

http://kenanaonline.com/files/0098/98064/saudi_sahwa_Qahtani.pdf (Last access 2 August 2016)

⁷⁵⁰ Ibid, p. 38.

⁷⁵¹ Ahmed Mansour, *Wahhabi Opposition to Saudi Arabia in the Twentieth Century*, p. 109, Egypt - Cairo, 2001

⁷⁵² Muhammad Al-shuyoukh, *Monitoring of Political Islam Sunni*, Published: 03-27-2013, Middle East Online, via: <http://www.middle-east-online.com/?id=152016> (Last access December 29, 2016)

⁷⁵³ Ibid

⁷⁵⁴ Ibid

Both movements continued their hostile discourse against the Kingdom of Saudi Arabia. However, they could no longer find any support for their discourses inside Saudi Arabia. This was because the followers of the influential figures such as Salman Al-Awdah and Safar Al-Hawali inside Saudi Arabia had retracted from accepting or spreading such hostile discourses; in addition, they worked to increase the level of awareness in the Saudi society.⁷⁵⁵

Consequently, Alfaqih and Almasaary turned to support the atonement stream represented by bin Laden and Al Al-Qaeda, which were completely alone. Maybe the cause of this new orientation of the two movements is the common element represented in hating the Saudi government and any other government related to America and western countries. The Awakening group's discourse is now attacking the Islamic government strongly and those who retracted from the Awakening movement.⁷⁵⁶

During the historical evolution of those extremist groups, Almasaary announced the foundation of the Islamic renewal party in 2004. He announced in his foundation statement that his goal was:

"working hard to turn all the Muslim countries to an Islamic home, cleanse it from the filth of disbelief and exerting serious efforts needed to unite them into one entity. The entity of the state of an Islamic caliphate based on the prophetic methodology."⁷⁵⁷

It is clear to notice that this discourse is so much like the discourse of ISIS during recent times. Although there are various groups adopting that idea, we find that they go on the same approach, speak the same language of hate, and choose the same terroristic approach to achieve their goals.

In contrast, Saad Alfaqih, the founder of the Islamic Reform Movement, was still issuing hatred and hostile speech against Saudi Arabia and its scholars. He counted on the religious side to

⁷⁵⁵ Saud Al-Qahtani, *Islamic Awakening Arabia*, p. 40-54, Dar Al Nadwa: electronic Library (2003) via: http://kenanaonline.com/files/0098/98064/saudi_sahwa_Qahtani.pdf (Last access 2 August 2016)

⁷⁵⁶ Ibid

⁷⁵⁷ Muhammad Almasaary, via: https://ar.wikipedia.org/wiki/%D9%85%D8%AD%D9%85%D8%AF_%D8%A7%D9%84%D9%85%D8%B3%D8%B9%D8%B1%D9%8A#cite_note-tajdeed-6 (Last access December 29, 2016)

polarize students and scholars in order to arouse public opinion against the government. He also counted on spreading rumors and inciting tribal feuds.

5. 1. 3. Hate Speech by Shiites After Nimr Al-Nimr's Execution

On 2/1/2016, the Saudi Ministry of Interior issued a statement for executing 47 instigators of terrorism, including the Saudi citizen, Nimr Baqir Al-Nimr, who belonged to the Shiite sect. The executions were carried out after meeting all litigation procedures for each accused. The verdicts were announced in the Court of First Instance, ratified by Appellate Court, then by the Supreme Court. Finally, a royal warrant was issued for enforcement.⁷⁵⁸

The instigators, including Nimr, were accused of 1) embracing the methodology Takfir (declaring others disbelievers), promoting misleading practices, and belonging to terrorist groups; 2) targeting security and military forces for kidnapping or killing, and encouraging armed confrontation.⁷⁵⁹ Nimr Al-Nimr was sentenced to punitive execution. The statement issued by the Saudi Ministry of Interior was that the Saudi government aimed at:

"Deterring all those who threaten the security of Saudi Arabia and its citizens, disrupt public life, or impede authorities from exercising their duties to maintain security of the society."⁷⁶⁰

Accordingly, some Shiite Speech were given by religious and political symbols; Saudi Arabia considered that as interference in internal affairs for inciting sectarian strife. Adel Al-Jubeir says about Nimr's execution:

"He is a terrorist; and as much a religious scholar as some of them. Bin Laden was implicated in inciting people, recruiting people, providing weapons training for people, and he was involved in attacks against security people and police stations that led to the killing of many innocent people. In Saudi Arabia, we are very determined to confront terrorism and counteract it robustly and firmly. We will show no mercy to those who killed innocent people. The individual, along with the other 46 individuals, had their due process; they went to the courts of appeal that was denied by the Supreme Court. This would open the door to many issues; the media both domestic and foreign have access to them if they

⁷⁵⁸ The Saudi Interior: a Statement for Executing 47 Instigators of terrorism, via: <http://www.alarabiya.net/ar/saudi-today/2016/01/02/%D8%A8%D9%8A%D8%A7%D9%86-%D8%B9%D8%A7%D8%AC%D9%84-%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9-%D8%A7%D9%84%D8%AF%D8%A7%D8%AE%D9%84%D9%8A%D8%A9-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9.html> (Last access 11 August 2016)

⁷⁵⁹ Ibid

⁷⁶⁰ Ibid

wanted to; the records are clear, the conditions are clear, and when the sentences were carried out that was the end of it. The Kingdom of Saudi Arabia should be commended for showing resolve in taking a firm position against people who kill the innocent not condemned for it, and as far as the Iranians are concerned what I find very puzzling is this individual is a Saudi citizen. He committed the crime in Saudi Arabia. He was sentenced in Saudi Courts and the sentence was carried out by Saudi authorities. What does Iran have to do with this? They execute hundreds of people every year. Nobody says anything about it. This is their system and so therefore the Iranian state (unjustifiably) inject themselves into our domestic affairs.”⁷⁶¹

Shiite rhetoric after Nimr's execution is very appropriate to be analyzed since it comes in a sectarian mold. That is because the content raised an objection to the execution of Nimr for belonging to Shia whereas Saudi Arabia is a Sunni country. This section will analyze such rhetoric, which is generally similar in the subject matter.

5. 1. 3. 0. Samples of Speech

1. Khamenei said, "The unjustly spilled blood of this oppressed martyr will no doubt soon show its effect, and divine vengeance will reach the Saudi politicians.”⁷⁶²
2. Khamenei’s website carried a picture of a Saudi executioner next to notorious Islamic State (ISIS) executioner ‘Jihadi John.’ Another version of the image appears under the label “white ISIS ”⁷⁶³
3. The Iranian government has renamed the street where the Saudi embassy is located as Nimr Baqer Nimr.⁷⁶⁴
4. Hussein Jaber Al-Ansari, the spokesman of Iranian ministry of foreign affairs, stated, "Saudi Arabia supports terrorists and carries out death sentences against its opponents. The Saudi Arabia government will pay dearly for the sick and irresponsible policy it adopts.”⁷⁶⁵
5. Ahmad Khatami, the head of assembly of Experts of the Leadership in Iran, said,

⁷⁶¹ Interview – Saudi Foreign Minister on CNBC, via: <https://www.youtube.com/watch?v=f7rMEve7o4E> (Last access 11 August 2016)

⁷⁶² State TV Reported Khamenei as Saying on Sunday 3-1-2016, via: <https://www.theguardian.com/world/2016/jan/03/irans-leader-vows-divine-vengeance-over-clerics-execution-in-saudi> (Last access 19 March 19, 2017)

⁷⁶³ The Foreign Desk News ,Shi’ite Cleric among 47 Executed in Saudi Arabia, Stirring anger in region, Quoting: The website of Iran's Supreme Leader, Ayatollah Ali Khamenei, via: <http://www.foreigndesknews.com/top-news/shiite-cleric-among-47/> (Last access December 31, 2016)

⁷⁶⁴ Institute for Contemporary Affairs, Iranian-Saudi Relations before the Abyss, via: <http://jcpa.org/article/iranian-saudi-relations-before-the-abyss/> (Last access 11 August 2016)

⁷⁶⁵ Arabic Sputnik News, Iranian Foreign Ministry: Saudi Arabia will pay dearly, via: http://arabic.sputniknews.com/arab_world/20160102/1016949543.html (Last access 11 August 2016)

"Saudi Shiites will turn the day of Al Saud's family into a dark night."⁷⁶⁶ He added, "This crime is to be expected from such an ill-functioning regime, because it has been based since its inception on crime and looting."⁷⁶⁷

6. Iranian Mehr news agency quoted Khatami saying, "Without a doubt this precious blood will be a blemish in the history of Saud's family, and Saudi will be erased from the pages of history."⁷⁶⁸
7. Alaeddin Boroujerdi, the head of national security committee in the Iranian state council, considered that the outcomes of Nimr's execution will be great on Saudi and described this act as an act of foolishness.⁷⁶⁹
8. Hassan Al Araki, the head of the forum for proximity between the Islamic Schools of Thought, said that this act is "a sign of the fall of the Saudi regime."⁷⁷⁰ He threatened the rulers of Saudi Arabia with "the delivery of a just penalty at the hands of faithful young people."⁷⁷¹
9. Hezbollah made a statement describing the execution of Nimr as based on "flimsy arguments, corrupt judgments, and nonsense that would not be justified by any means."⁷⁷²

⁷⁶⁶ Mareb press, Iran is "Furious" for the Execution of the Saudi Cleric "Nimr Al-Nimr", via: http://marebpress.net/mobile/news_details.php?sid=115783 (Last access 11 August 2016)

⁷⁶⁷ Ibid

⁷⁶⁸ dp-news, Saudi will be Erased from the Pages of History, via: <http://www.dp-news.com/dpgulf/detail.aspx?id=5690> (Last access 11 August 2016), Quoting: Iranian Mehr News Agency.

⁷⁶⁹ Rudaw, the Outcomes of Nimr's Execution will be Great on Saudi, via: <http://rudaw.net/arabic/middleeast/iran/02012016> (Last access 11 August 2016)

⁷⁷⁰ Lebanon Debate, Angry Reactions from Iran and Its Allies on the Execution of Nimr, via: <http://www.lebanondebate.com/news/231584> (Last access 11 August 2016)

⁷⁷¹ Ibid

⁷⁷² France 24, Hezbollah Condemns "the Assassination" of Nimr, via: <http://www.france24.com/ar/20160102-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D8%AD%D8%B2%D8%A8-%D8%A7%D9%84%D9%84%D9%87-%D9%84%D8%A8%D9%86%D8%A7%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D9%86%D9%88%D8%B1%D9%8A-%D8%A7%D9%84%D9%85%D8%A7%D9%84%D9%83%D9%8A-%D8%AA%D9%86%D9%81%D9%8A%D8%B0-%D8%B9%D9%82%D9%88%D8%A8%D8%A9-%D8%A7%D9%84%D8%A5%D8%B9%D8%AF%D8%A7%D9%85-%D9%86%D9%85%D8%B1-%D8%A7%D9%84%D9%86%D9%85%D8%B1> (Last access 11 August 2016)

10. Hassan Nassrallah, the secretary general of Hezbollah, stated, "There is no hope for reconciliation with a terrorist regime immersed in the blood they have shed."⁷⁷³
11. Moreover, Naim Qasim, the deputy of the secretary general, said, "Saudi Arabia is digging its own grave."⁷⁷⁴
12. Al sader on his website also said: "I call people to engage in angry demonstrations in front of Saudi headquarters and interests."⁷⁷⁵

As a response to all these above statements, demonstrations started to call for "death for Saud's family" in front of the Saudi Embassy in Teheran.⁷⁷⁶ The people's anger reached to attack the Saudi diplomatic mission and to burn the Saudi embassy without any interference from the Iranian government.⁷⁷⁷ Actually, those revolting actions were a result of hate speech against Saudi Arabia. Iran's discourses against the Kingdom of Saudi Arabia, which accused the Saudis of directly instigating the attack, in violation of all treaties that called for protecting diplomatic missions. This reflects the Iranian government's inflammatory attempts to instigate sectarian strife in the Arab region.

5. 1. 3. 1. Analysis of Hate Speech by Shiites from Traditional Islamic Law

According to the definition of hate speech from traditional Islamic law, the aforementioned speech will be analyzed from the perspective of Islamic law. Speech and their actions have been expressed in various forms. First, direct speech addressing the public, such as the speech of Khomini and Hassan Nassrallah were aimed directly at the public as they always do. Second, the official announcements, such as the speech of the spokesman of the Iranian ministry of foreign affairs, Hussein Jaber Al-Ansari, the speech of the head of the assembly of experts in Iran, the speech of the head of the national security committee in the Iranian state council Alaeldin, and the

⁷⁷³ BBC News, Nasrallah: Saudi Arabia Wants to Ignite a War between Shiites and Sunnis in the World, via: http://www.bbc.com/arabic/middleeast/2016/01/160103_saudi_shia_hezbollah (Last access 11 August 2016)

⁷⁷⁴ E-media, Qasim: Saudi Arabia is Digging Its Own Grave, via: http://emediac.com/index.php?page=Details&category_id=31&id=30048 (Last access 11 August 2016)

⁷⁷⁵ Reuters Arabic , via: <http://ara.reuters.com/article/topNews/idARAKBN0UG0E720160102> (Last access December 31, 2016)

⁷⁷⁶ Ben Hubbard , Iranian Protesters Ransack Saudi Embassy After Execution of Shiite Cleric, via: http://www.nytimes.com/2016/01/03/world/middleeast/saudi-arabia-executes-47-sheikh-nimr-shiite-cleric.html?_r=0 (Last access 11 August 2016)

⁷⁷⁷ Ibid

speech of the deputy of the secretary general of Hezbollah, Naim Qasim. Third, Caricatures that were published on Al-Khomeini's site were offensive. Fourth, Nimr Baqir Alnimr's poster is a modern form for hate speech. This poster was constructed after Nimr's execution in the street of Saudi Embassy. Also, this street was renamed after this execution. Fifth, the form of articles, such as the article of Assadr published on his website. Sixth, Chants include the calls of the protesters against the Saudi government in front of the Saudi embassy in Tehran. Seventh, the type of statements Hezbollah has issued statements against Saudi Arabia. Eighth, the Iranian government has allowed the public to protest in front of the Saudi embassy in Tehran. As highlighted in the previous chapter, expression means any "words or acts." The Iranian government provided an environment conducive to protestation without any intervention.

From traditional Islamic law view, Incitement or hate speech is a separate crime; therefore, it is not required to examine the status of the speech issuer or his position, whether he is formal and effective or not. Also, there is no need to investigate impact of speech nor the place and means of its release. Likewise, the definition is not taken into consideration whether the issuer of the discourse is an individual, such as the Speech of Khamenei, Hassan Nassrallah, and Al sader, or whether it was by a group as was the case with Hezbollah's statement, and with the declaration of the Iranian ministry of foreign affairs. If a speech is issued by a person or association and it contains the fundamental elements of: content, intent according to the context, offense as an inevitable result, or higher effects, it is classified as hate speech. To know whether these Shiite discourses are examples of hate speech or not, from an Islamic law point of view, they should be analyzed according to the following basic elements.

After Nimr's execution, the contents of some Shiite Speech concentrated on refusing the warrant of execution issued by the Saudi court. In addition, Shiite rhetoric attempted to interfere in the internal affairs of Saudi Arabia and promote rumors about the Saudi government. These were explicit violations of the following: After Nimr's execution, the contents of some Shiite rhetoric concentrated on refusing the warrant of execution issued by the Saudi court. In addition, Shiite rhetoric attempted to interfere in the internal affairs of Saudi Arabia and promote rumors about the Saudi government. Their speech violated two of the supreme Islamic values, which are principles of honesty and respect. Hassan Jaber Al-Ansari said, " Saudi Arabia supports terrorists and carries out death sentences against its opponents" Does Saudi Arabia support terrorism? Of

course not. Saudi Arabia actually is a target for terrorism. Saudi Arabia launches war against terrorism. Saudi Arabia always rejects all acts of terrorism from Islamic and non-Islamic countries. How does Saudi Arabia support terrorism? Saudi Arabia has executed a terrorist who indulged in terrorist acts. The content of this speech violates the honesty principle. It promotes lies about Saudi Arabia. Osama bin Laden was Saudi and he called himself a Sunni; yet, Saudi Arabia was the first country that labeled him as a terrorist. Saudi Arabia also supported the United States to neutralize Al-Al-Qaeda. Does Saudi Arabia execute opponents? Does Al-Ansari have any evidence? For example, Nimr was an opponent, but Saudi Arabia did not execute him for his opposition, rather because he had committed terrorist crimes; he called for killing policemen and engaged in direct assaults against policemen. In addition, Ahmad Khatami said, "This crime is to be expected from such an ill-functioning regime, because it has been based since its inception on crime and looting." Khatami does not have any evidence; he just spreads rumors, which violates the honesty principle. In fact, every country has the right of sovereignty, which has to be respected by others. From an Islamic perspective, Nimr was a Saudi citizen who committed a crime against Saudi Arabia and its people. Therefore, Shiites' speech is considered a blatant violation to Saudi Arabia's right of sovereignty and direct interference in its own affairs. For instance, Hezbollah's statement describing the execution of Nimr as illogical and nonsense is a kind of interference in the Saudi justice system. Clearly, there is a direct violation of one of the constants of Islam, which is an Islamic value. Thus, one of the elements of hate speech is considered here, which is content.

The intent of the Shiite speech appears by observing them. They come in one of the following contexts. The first context is Incitement. "Divine vengeance will reach the Saudi politicians", "The Saudi Arabian government will pay dearly for the sick and irresponsible policy it adopts." and "I call people to engage in angry demonstrations in front of Saudi headquarters and interests." All these sentences show that incitement is repeatedly used to fight Saudi Arabia. For example, Al Khomeini's speech was framed in a religious context to persuade people easily to revolt against Saudi Arabia. The second context is calling for hatred and hostility. All these statements portray the Saudi government as terroristic and unjust, saying, for instance, " This crime is to be expected from such an ill-functioning regime, because it has been based since its inception on crime and looting;" and "Saudi Arabia is digging its own grave;" and other more offensive images such as likening the Saudi death penalties, which were legally pronounced, to ISIS terrorist acts. This reflects the ongoing attempts to distort the image of Saudi Arabia and to consider it as an enemy

against humanity. This clearly indicates that the intent of these speech was to spread hatred deep rooted in sectarianism. The third context is calling for violence. Shiite speech were characterized by a call for violence based on justifications such as the claim that "There is no hope for reconciliation with a terrorist regime immersed in blood they have shed." This means that they have to go through confrontations with Saudi Arabia as all other statements called for. For example, Mohsen Al Araki threatened Saudi governors, saying that they will regret everything. Khatami said, "Saudi Shiites will turn the day of Al Saud's family into a dark night." and Alaeddin Boroujerdi described Nimr's execution as an act of foolishness. This clearly indicates that the intent of this speech is to encourage violence on the ground on a sectarian basis. Fifth, Shiite rhetoric came in the context of ridiculing the Saudi justice system, which relies completely on Islamic law. Hezbollah described Nimr's execution as having taken place under false pretenses, corrupt judgements, and empty allegations. This context is very dangerous because it crosses over from the political standpoint to the religious one, which could spark sectarian strife. Thus, ridicule manifest the intention of the source to promote hate speech. Finally, Shiite rhetoric also took the form of insults, like the description of Aladdin. He described Nimr's execution as "foolish." This form of expression evokes hate. Thus, All these contexts confirm the intention of the source to commit hate speech.

According to the concept of hate speech from the Islamic perspective, if any speech causes any abuse to others, it is considered hate rhetoric. Obviously, the aforementioned speech has done great disservice to the Kingdom of Saudi Arabia and its Sunni sect. Moreover, by reviewing the violent acts, this hate speech contributed to damaging the Saudi diplomatic mission in Tehran and stirring sectarian strife in the Muslim community. Clearly, there is abuse to Sunni states. Thus, one of the elements of hate speech is present here, wherein abuse as an inevitable outcome.

In a nutshell, the Shiite speech cited previously is regarded as hate speech under traditional Islamic perspective as they violate the constants of Islam and the sovereignty of countries. Apparently, the content of this speech is characterized with incitement and calling for hatred and violence against Saudi Arabia and the Sunni doctrine. The aforementioned speech has done great disservice to others and has contributed to acts of violence that are unacceptable according to Islamic law.

5. 1. 4. Hate Speech Issued by Sunnis after Military Operations in Yemen named "Determined Storm"

On the 24th of March 2015, Yemeni president Abd Rabbou Mansour sent a formal letter to the leaders of the Gulf Cooperation Council (GCC) asking for a military interference to protect Yemen from Houthi aggression. The letter said,

"I appeal to you my brothers and sisterly nations to stand — as you have accustomed us always — by the Yemeni people for the protection of Yemen, and I ask you, based on the principle of self-defense in Article 51 of the Charter of the United Nations, and on the basis of the Charter of the Arab League and the treaty of joint Arab defense, to provide instant support by all necessary means, including military intervention to protect Yemen and its people from continuous Houthi aggression and deter the expected attack to occur at any hour on the city of Aden and the rest of the southern regions, and to help Yemen in the face of Al Al-Qaeda and ISIL."⁷⁷⁸

On Thursday 26th of March 2015, Gulf countries except Oman decided to launch military operations named "Determined Storm. " The GCC statement included:

"Emanating from our responsibilities for the brotherly people of Yemen and as a response to the contents of President Abd Rabbo Mansour Hadi's letter to provide all instant necessary means and measures to protect Yemen and its people from aggression of Houthi militias backed by regional powers aimed at hegemony on Yemen and make it a base for influence in the region, making the threat not confined to Yemen's security, stability and sovereignty, but has become a comprehensive threat to the security of the region and international peace and security, in addition to his request for providing help for Yemen against terrorist organizations."⁷⁷⁹

It is clear that the aim of these military operations is to protect Yemen from the terrorist militants such as Houthis, Al Al-Qaeda, and ISIS. None of the official statements provoked any sectarian response. However, some Shiite followers regard some Sunni discourse as hate speech that provoke a sense of sectarianism. So, it is necessary to analyze these types of speech in an attempt to figure out their true intent, whether it be hate speech or just a form of freedom of expression.

⁷⁷⁸ The Official Statement of Yemeni President Abd Rabbo Mansour Hadi, March 24, 2015, via: <http://www.thenational.ae/uae/gcc-statement-gulf-countries-respond-to-yemen-developments#page2> (Last access 12 August 2016)

⁷⁷⁹ GCC Statement: Gulf Countries Respond to Yemen Developments, via: <http://www.thenational.ae/uae/gcc-statement-gulf-countries-respond-to-yemen-developments#page2> (Last access 12 August 2016)

Some Sunni speech referred to the confrontation between Sunni and Shiites as a war, which indicated that there is no possible co-existence with the Shiite minorities who reject all forms of terrorism from any group.

5. 1. 4. 0. Samples of Speech

The following are samples of various speech made by Sunnis:

1. Adnan Shaker said on 3\28\2015 in a Friday sermon, "Shiites eat away at society from within. They are hidden enemies who share life with us and give us sudden blows. How are we to confront someone who eats and drinks with us, is called by our name, says 'There is no god but Allah,' just like we do, and may pray as we do? Those who call themselves Shia of Mohammed's house are the worst of God's creation."⁷⁸⁰
2. Hamza Majid al-Majali said, "Our war is a Sunni-Shiite war, a war about belief, a war against hypocrisy and lies. Our war with Iran is about true religion and oneness. It is deserving a sectarian war. And if it is not, we will seek to make it so."⁷⁸¹
3. He also said, "Our dispute with Rawafid (Shiite sect) will not go away as long as they have a state; it will never go away as long as they calumniate Aishah (wife of the Prophet Muhammad). It will not go away as long as they promote disbelief. Our dissension with Rawafid will last as long as they exist. It will continue so long as they breathe, and until our roots or theirs vanish. This is the battle we should gather around today."⁷⁸²
4. A statement, under the name of "the duty of Muslims towards the Safavid-Iranian danger," was issued by 140 Sunnis scholars on Saturday, 25 March 2015. It says, "It is important to warn from the danger of acts of some minorities in the Islamic countries who try to control the vast majority. The minorities of Shia are alienated from their patriotism and they enhance this through staying away from society. Therefore, their political and sectarian dependence and loyalty remain with other countries, and they are a dagger used for launching coups against community and country. Here we ask these minorities to be

⁷⁸⁰ Adnan Shaker, a Friday Sermon, via: <https://www.youtube.com/watch?v=a5J8Pv6djA4> (Last access 12 August 2016)

⁷⁸¹ Hamza Majid al-Majali, a Friday Sermon, via: <https://www.youtube.com/watch?v=PnPJpiXMeRo> (Last access 12 August 2016)

⁷⁸² Ibid

cautious and independent, and to check their policies so as not to be an agent used to implement foreign purposes that don't serve their stability and their sons' future."⁷⁸³

5. 4. 1. 4. 1. Analysis of Hate Speech by Sunnis from Traditional Islamic Law

Before analyzing in accordance with the three accredited items "content, intention, and abuse as an inevitable result," it is beneficial to give a quick overview of the forms of discourse.

The aforementioned Sunni speech came in several forms. The first form is direct speech. Direct speech is known to Muslims as a Friday sermon, such as that of Adnan Shaker and Jamal. Friday sermon is defined as, "a sermon preached by an imam in a mosque at the time of Friday afternoon."⁷⁸⁴ The aim of the Friday sermon is to remind Muslims of their religion or to discuss other contemporary issues related to Islam. Many people attend such sermons; therefore, its effect is huge. The second form is statements, such as the statement by hundred and forty Sunnis scholars that was issued in an unofficial capacity. The official attitudes is the third form of speech. The attitude of Islamic official and legal authorities is all about maintaining neutrality and silence about the speech by hundred and forty Sunnis. As aforementioned, expression refers to any "saying or action." The neutral attitude of official authorities falls under actions. This is considered an implicit form of support for such rhetoric. However, the neutrality of the common people is not considered as implicit support since they do not have authority; therefore, their silence does not reflect their true attitudes.

As previously indicated, it is not required, according to traditional Islamic law, to examine the status of the one issuing the speech or his position, whether he is formal and effective or not. Also, there is no need to investigate impact of speech nor the place and means of its release. Also, the definition of hate speech is not taken into consideration, whether the source of discourse is an individual, such as Adnan Shaker or Jamal or a group like the one that made the statement by the hundred and forty Sunnis scholars. If a speech is issued by a person or an association and it contains the fundamental elements of content, intent according to the context, abuse is an inevitable result, or even worse effects, it is classified as hate speech.

⁷⁸³ Al Muslim. net, Statement on the Duty of the People of Islam Towards Iran's Safavid Danger, via: <http://linkis.com/KKt43> (Last access 12 August 2016)

⁷⁸⁴ Khutbah, Dictionary.com Unabridged. Retrieved August 12, 2016 from Dictionary.com website <http://www.dictionary.com/browse/khutbah>

The content of some of the Sunni discourses that followed the Determined Storm process confirms that the war in Yemen was a Sunni-Shia conflict. This is against the goals of forces of the Arab coalition, which were protecting Yemen from "Ansar Allah," Houthis, or any other group, such as Daesh and Al-Qaeda that was threatening the interests of Yemenis. In fact, the content of these Speech is a true violation of the high Islamic values, which are honesty and respectfulness. Moreover, it breached two main human rights: freedom of religion; and right to life.

Their speech violated one of the five Islamic constants, which is the lofty Islamic principles, through contravening the values of honesty and respecting the others. Clearly, the Sunni speech exploited the tense political situations in the region and the ongoing war in Yemen. They broadcast hearsay and lies about all Shiites as if they were supporting Al-Houthi, Hezbollah, and Iran. In addition, the content of the speech indicated a refusal of peaceful coexistence. For instance, Adnan Shaker made reference to, "How are we to confront someone who eats and drinks with us, is called by our name, says 'There is no god but Allah,' just like we do, and may pray as we do?" He was singling out Shiite minorities in some of the Islamic countries such as Saudi, for they eat, drink, and live with Sunnis. He, without providing any proof, described them as hostile, which is a clear infringement of the principle of honesty. He also violated the precept of respecting others by calling them "the worst of God's creation."

Likewise, the statement of the hundred and forty Sunnis scholars announced, "The minorities of Shia are alienated from their patriotism and they enhance this through staying away from society. Therefore, their political and sectarian dependence and loyalty remain with other countries, and they are a dagger used for launching coups against community and country." The content of the speech shows Shia as terrorism supporters that constitute a danger to the state, which is not based on evidence. When a small group of the minorities seeks to disturb public security, rumors should not be spread against these Shiite minorities who always announce their patriotism and even engage in development with governments. However, the statement has to warn against the threat of terrorism for both Sunnis and Shiites, but writers of the report give no indication of being impartial, which is a violation of honesty it breaches the principle of "respecting the others." It violated the principle when it described Shiite minorities as a danger to the Islamic states: "It is important to warn from the danger of acts of some minorities in the Islamic countries who try to control the vast majority."

Moreover, their speech violated two of main human rights, which are the right to life and freedom of religion. Obviously, through the content of Sunni speech, the language of religious explanations has escalated greatly, signifying the speech as elements in a religious war. The other Shiites, whoever they are, should be deprived from the right to live, for they belong to a different community whose adherents fight Sunnis. For example, Hamza considers the war as a “Sunni-Shia war... It is deservingly a sectarian war. And if it is not, we will seek to make it so,” he says. The content denies others their right of religion and doctrine, which is guaranteed by the Islamic law. In other words, either you are Sunni, therefore you live in peace, or you are Shiite- therefore the enemy whether you are militant or not. This is an explicit infringement of the right to sectarian affiliation of the citizen in the Islamic law. Jamal adds: “Our dissension with Rawafid will last as long as they exist. It will continue so long as they breathe, and until our roots or theirs vanish. This is the battle we should gather around today.” The content also violates protecting the human right of decent life without considering his or her religion or belief. Furthermore, it is a breach of the principle of coexistence. To sum up, the content of these discourses has flagrantly violated one of the five Islamic constants, which is the noble Islamic values. It has breached the right to protect life and religion, which are basic human rights, too. Consequently, the first element of hatred speech, which is the content, is proved.

By defining the context in which the Sunni discourses that took place, it will be easy to determine the intention of the one giving the speech, whether a group or an individual. First, the Incitement context: Incitement appears in these speeches through their characterization of the Determined Storm process as the “Sunni-Shia war” or “sectarian war.” Also, Incitement is clearly indicated by regarding Shiite minorities or Shias as a secret enemy within the Islamic nation, while Shias’s enmity is within the Islamic community and they gnaw at it from the inside. “How are we to confront someone who eats and drinks with us, is called by our name, says ‘There is no god but Allah,’ just like we do, and may pray as we do? Those who call themselves Shia of Mohamed’s house are the worst of God’s creation.” In addition, Incitement is obvious in these discourses through saying that the conflict with Shias is continuous until they exist no more: “Our dissension with Rawafid will last as long as they exist. It will continue so long as they breathe, and until our roots or theirs vanish.” Hatred and hostility mongering is the second context of their speech. This context appears to characterize Shias as antagonists: Shias’ enmity is “from within.” and by assuming that the Shiite minorities are spies for external forces and tools used for implementing

foreign plots: "Their political and sectarian dependence and loyalty remain with other countries, and they are a dagger used for launching coups against community and country." The third context is calling to violence against Shiite. The necessity of joining a sectarian battle in which Sunni or Shia disappear. "It will continue so long as they breathe, and until our roots or theirs vanish. This is the battle we should gather around today." Insulting is the fourth contexts of Sunni speech; for instance, Adnan Shaker regarded Shiites as "the worst of God's creation." The last is racial context according to sectarian affiliations. A racial context is apparent in the speech that looks at Shiite minorities as a danger that should be kept under observation, as mentioned in the statement of the hundred and forty Sunnis scholars: "Here we ask these minorities to be cautious and independent, and to check their policies so as not to be an agent used to implement foreign purposes that don't serve their stability and their sons' future." This context is very serious because it shows that the Shiite minorities are responsible for terrorist events. In addition, it is threatening that unless the Shiite minorities revise their own policies, there is a risk to their peace and the existence of the state. Terrorism has no religion or sect; therefore, what is the reason behind directing the speech at those minorities only, whereas they should be directed to all social groups. Also, the concern should be for all external policies that promote terrorism. To conclude, the contexts of these Sunni discourses emphasize the intention of committing the crime of antipathy speech. Therefore, this Sunni speech falls under the concept from traditional Islamic law based on intent of those responsible for the speech according to actual context of their speech.

According to the definition of hate speech from an Islamic viewpoint, if an abuse results from a speech, it is hate speech. This speech has clearly abused the Shiite sect, especially the minorities. In addition, there are other effects greater than abuse, which are slandering Shi'ism, especially the peaceful minorities that reject all acts of violence and terrorism. Furthermore, the speech causes difficulties in coexistence between the two doctrines in the future.

The Sunni discourses that followed operation 'Determined Storm' are considered hate speech, in accordance to traditional Islamic perspective, and they are not a form of freedom of expression. This type of speech is criminalized by Islamic law, because their content violated the Islamic constants and main human rights. In addition, the intentions of those responsible for the speech according to the context were characterized by aggression and hatred. The Shiite community and minorities were open to abuse as an inevitable result of this type of speech.

Furthermore, it caused serious results, which are greater than abuse, such as slandering Shi'ism and its adherents and causing difficulties in coexistence in the future.

4. 1. 5. Conclusion

Demonstrating the attitude of traditional Islamic law towards the two dominant examples nowadays, which are the Speech of the Shia and Sunni, does not mean limiting the discourses to those models. Nevertheless, religious channels of both sects have many disquisitions that encourage hatred. Noticeably, most of the hate speech recalls the bloody history between adherents of those doctrines and applies it to the current political episodes in the Middle East, thus providing historical and political justification to continue the conflict. In addition, another motive for the hate speech is to deepen the ideologies and eliminate the possibility of rapprochement and coexistence. These discourses proclaim a sectarian identity, depend on doctrinal distinctions, and exclude what is mutual between the two sects. This is in order to legitimize and perpetuate the conflict between the Arab and Islamic countries. Moreover, Shia–Sunni speech take advantage of the confused situation in the Middle East through justifying some political events and ongoing wars in the region. In short, these discourses of hatred are not based on actual Shia–Sunni doctrinal differences, but rather on old animosity. These types of speech unprecedentedly adopt methods of hate and enmity, so that they become a public issue. In addition, they encourage sectarians of both sects who do not have enough religious and political background to contribute to spread them and to extend sectarianism all over the Muslim world. Even though Islamic law explicitly incriminates all forms of hate speech between Sunnis and Shiites, there are no lawsuits, penalties, or systems to regulate such discourse. None of those who delivered the discourses analyzed in this chapter have been judged. This is because there are neither specific definitions for hate speech in the Islamic states nor regulations with penalties for those judged guilty of hate speech.

5. 2. The Position of Traditional Islamic Law on the Speech Issued by Some Terrorist Groups that Ascribe themselves to Islam

5. 2. 0. Introduction

Terrorist groups that ascribe themselves to Islam or Islamic Jihad strongly threaten the safety and stability of individuals, communities, and countries. Such groups have become a form of illegal political struggle locally, regionally, and worldwide. Though terrorism exists in different

forms and has various patterns of crimes, goals, and even resources, these groups tend to attribute their deeds to religious justifications in order to convince young Muslims to join them. One must note that, unlike Muslim scientists and politicians who label these groups as terrorists that use religion to achieve political goals, many western politicians and intellectuals consider them to represent true Islam. The most obvious proof that they do not belong to Islam is that the Islamic communities and governments have been victims of their crimes. During the Munich Security Conference, a journalist claimed that ISIS was in fact Islamic. Saudi Foreign Minister Adel Al-Jubeir answered him:

“Every religion has perverts and psychopaths who try to hijack it. ISIS is as much Islamic as the KKK is Christian. Don't they have a cross? Don't they do everything in the name of religion and Christ? Don't they believe that Christ compels them to lynch and kill people of African descent? Can one really say that the KKK is a Christian organization? There are other groups that one can point to. There are other massacres that were committed in the name of keeping certain countries or regions clear of non-Christians. There are people like this also in the Jewish faith that have nothing to do with Judaism. There are people like this in the Hindu faith that have nothing to do with Hinduism. For anyone to argue that DAESH is Islamic is preposterous. In the Islamic faith, the Quran reveals that you have your faith and I have my faith. You are free to practice your faith and I am free to practice mine. What greater sign of tolerance and acceptance do you have than this? In the Islamic faith it says, 'He who kills an innocent soul is as if he has killed all of humanity. And he who saves an innocent soul is as if he has saved all of humanity.' What better example of compassion and mercy do you have than this? So if you look at what DAESH says and say 'it is in the scriptures' doesn't the old testament say 'an eye for an eye and a tooth for a tooth'? If somebody did that today would you say that they were Christian or that they were Jewish? I caution people, because it seems to have become almost...the flavor of the day to try to read things into DAESH or into Islam that are not there. The Islamic civilization was the civilization that preserved the history of Greece and Rome and passed it onto the West. Western civilization would not exist without the Islamic Arab civilization. The Islamic civilization was the civilization that connected China with Europe, so it was global... If Islam was intolerant and DAESH represented Islam, would Islam have preserved Aristotle and Socrates and passed it onto the West? Would Islam have connected Eastern civilization with Western civilization? Of course not. I urge you, all of you, to be careful when it comes to making generalizations or accepting generalizations when they have no basis in fact.”⁷⁸⁵

In addition to their secret gatherings, terrorist groups largely depend on their speech to promote violence and hostility against other groups and people. Such speech is the true danger, because the speakers use religious justifications including “the principle of Jihad” and “the freedom of

⁷⁸⁵ Video: FM Al-Jubeir Addresses Munich Security Conference, via: <https://www.youtube.com/watch?v=RBkloV3ztUA> (Last access October 28, 2016)

Religion.” The misconception of these terms is the reason that the hostile speech is becoming prevalent.

5. 2. 1. Comparison between the Position of the Extremist Groups and the Position of the Islamic Law on the Two Islamic Principles

It is necessary to compare the position of the extremist groups with the position of Islamic Law on these two principles.

5. 2. 1. 0. Islamic Jihad

To begin with, the extremist groups define Jihad as fighting every non-Muslim, and every Muslim who forms relationships with non-Muslims. They use the religious texts to justify their terrorist actions under name of Jihad. “Terrorist groups that flagrantly use religion as a cloak to cover up acts of violent extremism cannot hide their serious ideological flaws. These reveal the warped logic and incorrect use of religious texts out of context as they try to justify what in reality is an insatiable desire for power, control and bloodshed,”⁷⁸⁶ Shawki said:

“Clearly, these terrorist organizations have deformed the concept of Jihad, and interpreted it as killing and slaughtering everyone who disagrees with them. They claim that this is the definition of Jihad as Allah has ordered us. Of course, that is not true, and the Islamic definition of Jihad is entirely different. The Arabic word “Jihad” is often translated into “sacred war,” when in fact, it means hard work and struggle.⁷⁸⁷ The word “War” is translated into “al-harb” in Arabic. According to Islamic law, Jihad has many meanings, and it can be defined as, “internal as well as external efforts to be a good Muslim or believer, as well as working to inform people about the faith of Islam.”⁷⁸⁸

The definition includes military power as an aspect of Jihad with the goal of protecting the religion and the land. This power may be replaced with political, diplomatic, or economical methods. When all these methods fail to provide security to the Muslim country, it can turn to power under certain conditions. First, the unarmed innocent people including women, children, and elderly are not to be harmed.⁷⁸⁹ According to the Sunnah, the prophet (peace be upon him)

⁷⁸⁶ Shawki Allam, Terrorists and Their Quranic Delusion, The Wall Street Journal, 2015, via:

<http://www.wsj.com/articles/terrorists-and-their-quranic-delusions-1428620268> (Last access October 28, 2016)

⁷⁸⁷ Ibn Manzur, Lisan Al-Arab (The Arab Tongue), Volume.3, p. 224 Dar Sader Publications; 3rd edition (2000).

⁷⁸⁸ Muhammad Kabbani & Seraj Hendricks, Jihad: A Misunderstood Concept from Islam, The Islamic Supreme Council Of America, via: <http://islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html> (Last access March 19, 2017)

⁷⁸⁹ Hamid Al Sagheer, The Ethics of Wars in the Biography of the Prophet, p. 38-39, Alalokh Library, Morocco 2015

once said to one of his armies: "do not embezzle the spoils; do not break your pledge; and do not mutilate (the dead) bodies; do not kill the children."⁷⁹⁰ Second, Muslims should accept the enemy's serious attempts towards peace.⁷⁹¹ According to the Qur'an, God said; "if the enemy incline towards peace, do thou (also) incline towards peace, and trust in God: for He is One that hears and knows (all things)."⁷⁹² Third, Jihad must be declared by the official authority, and no one is allowed to declare it on behalf of Muslims.⁷⁹³ the declaration of Military Jihad is the prerogative of the ruler of the state. Thus, the terrorist groups, as non-state or an illegitimate state, are not allowed to declare Jihad.⁷⁹⁴ Bernard K. Freamon, commenting on this verse, said:

"This verse is the genesis of the concept of military jihad. It clearly offers normative justification to Muslims for waging war in the exercise of the collective right of self-defense and it brings the Islamic conception of defensive war into close alignment with traditional Western "Just War" doctrine."⁷⁹⁵

Also, another Quranic verse stated: "To those against whom war is made, permission is given (to fight), because they are wronged; - and verily, God is most powerful for their aid."⁷⁹⁶ Military Jihad was legislated for great goals such as fighting injustice. Other goals include defending the self and the land. According to the Qur'an, God, also, said: "If then any one transgresses the prohibition against you, Transgress ye likewise against him."⁷⁹⁷ Military Jihad can be considered a "just war," and it is nothing like the actions of extremist groups and organizations, which disobey the orders of the Qur'an and declare war against other religions for no reason. According to the Qur'an, the verse states: "God forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them"⁷⁹⁸ Thus, Islamic Jihad does not encourage the Muslim to bomb himself or kill innocent

⁷⁹⁰ Imam Muslim, Sahih Muslim, Hadith Number 4294, Book. 19, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁷⁹¹ Hamid Al Sagheer, The Ethics of Wars in the Biography of the Prophet, p. 38, Alalokh Library, Morocco 2015

⁷⁹² The Quran, verse (8:61).

⁷⁹³ Dhafer Al Qasimi, Jihad and International Public Rights in Islam, p. 416-417, Dar El Ilm Lilmalayin for Printing and Publishing, Lebanon - Beirut, First Edition 1982,

⁷⁹⁴ Shawki Allam, Terrorists and Their Quranic Delusion, The Wall Street Journal, 2015, via:

<http://www.wsj.com/articles/terrorists-and-their-quranic-delusions-1428620268> (Last access October 28, 2016)

⁷⁹⁵ Bernard K. Freamon, Martyrdom, Suicide, and the Islamic Law of War: A Short Legal History, Fordham International Law Journal, Vol. 27, p. 302, December 2003

⁷⁹⁶ The Quran, verse (22:39).

⁷⁹⁷ The Quran, verse (2:194).

⁷⁹⁸ The Quran, verse (60:8).

people; neither does it promote flying a plane to blow a building where innocent civilians live. Traditional Islamic law criminalizes suicide bombings on the basis as a prohibited form of self-murder or suicide.⁷⁹⁹ According to the Quran, God said: "Do not kill (or destroy) yourselves"⁸⁰⁰. Also, the Prophet Muhammad (peace be upon him) said: "if somebody commits suicide with anything in this world, he will be tortured with that very thing on the Day of Resurrection"⁸⁰¹. Prohibition of this form of suicide, in Islam, because it causes the killing of innocent people and terrorizes, it also destroys public property.⁸⁰²

It is delusional for these terrorists to think that those who were killed in the line of 'duty' are considered martyrs and will be rewarded with paradise. The terrorists who are killed aren't considered martyrs according to Islamic law, even if they considered their act to be a form of jihad, had sincere intentions, or were acting out of ignorance. Good intentions don't justify illegal acts—and it is totally prohibited by Islam to kill innocent people. Thus terrorist acts like 9/11 in the U.S., 7/7 in London or any other similarly horrendous attacks are blatant acts of murder and have nothing to do with jihad."⁸⁰³ Therefore, the military aspect of Jihad is only legal when it aims at defending the self and the land and preventing aggression. Jihad must always follow the ethical and behavioral regulations of Islam. These extremists' misconceptions of Jihad are due to their complete ignorance of the true interpretation of the Qur'anic and prophetic texts. They have no clue about the rules of citation or the objectives of the Islamic Sharia. They also ignore the texts that encourage peace and mercy and replace them with bloody meanings and deformed rulings. Hence, they declared war against Muslims and non-Muslims who would disagree with their extremist objectives.

⁷⁹⁹ Khalid al-Fawwaz, *The Suicide Bombings*, p. 101-108, Saudi Arabia- Riyadh: Naif Arab University for Security Sciences (2009)

⁸⁰⁰ The Quran, verse (4:29)

⁸⁰¹ Imam Al-Bukhari, *Sahih Al-Bukhari*, Hadith Number. 77, Vol. 8, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

⁸⁰² Khalid al-Fawwaz, *The Suicide Bombings*, p. 101-108, Saudi Arabia- Riyadh: Naif Arab University for Security Sciences (2009)

⁸⁰³ Shawki Allam, *Terrorists and Their Quranic Delusion*, *The Wall Street Journal*, 2015, via: <http://www.wsj.com/articles/terrorists-and-their-quranic-delusions-1428620268> (Last access October 28, 2016)

5. 2. 3. 1. Freedom of Religion

As previously mentioned, the freedom of religion is granted to all people⁸⁰⁴, according to the Qur'anic texts, "Let there be no compulsion in religion."⁸⁰⁵ and "To you your religion, and to me my Religion."⁸⁰⁶ Extremist terrorist groups reject religious plurality, and believe that all people should be Muslims or under the authority of the Islamic government. They even refuse coexistence and intellectual exchange among peoples. This is due to their wrong understanding of Islamic texts. The Qur'an said: "O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you."⁸⁰⁷ Throughout Islamic history, Islamic communities have been the center that connected different civilizations.⁸⁰⁸ According to Islamic traditional law, God has given humans the freedom of choice, including the choice of religion. God said: "Say, 'The truth is from your Lord': Let him who wills, believe, and let him who wills, reject (it)"⁸⁰⁹ Freedom of Religion means that no one is forced to choose a certain faith initially: "Let there be no compulsion in religion."⁸¹⁰ However, once the person chooses Islam as their religion, they are bound to obey all its orders and avoid its prohibitions.⁸¹¹ Extremist groups deny that anyone is given the freedom of choice in the beginning. They say that one should either embrace Islam as their religion, or submit to the authority of Islam.⁸¹² The reason of this wrong interpretation of freedom of religion embodied into the belief that they represent the true Islam and judge all other communities and organizations as unbelievers, even if they belong to Islam, and also their refuse to admit all other divine religions, and reject

⁸⁰⁴ Al Qutb Tablyah, *Islam and Human Rights*, p. 66-71, Dar Arab Thought for Printing, Publishing and Distribution, Second Edition 1984, Cairo.

⁸⁰⁵ The Quran, verse (2:256).

⁸⁰⁶ The Quran, verse (109:6).

⁸⁰⁷ The Quran, verse (49:13).

⁸⁰⁸ T. W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, p. 300- 301, London Constable & Company Ltd, Second Edition: Revised and Enlarged 1913

⁸⁰⁹ The Quran, verse (18:29).

⁸¹⁰ The Quran, verse (2:256).

⁸¹¹ Wafaa Al-Ajmi, *The Concept of Freedom in Islam*, 2015, The Website of the Message of Islam, via:

<http://fiqh.islammessage.com/NewsDetails.aspx?id=11960> (Last access November 4, 2016)

⁸¹² Majed Kayali, *Extremist Groups (Islamist)*, Published on 01.26.2015, number: 9809, p. 8, Arab newspaper London, via:

<http://www.al-arab.co.uk/article/%D8%A7%D8%B1%D8%A7%D8%A1/43641/%5C'%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D8%A7%D8%AA%5C'-%D8%A7%D9%84%D8%AC%D9%85%D8%A7%D8%B9%D8%A7%D8%AA-%D8%A7%D9%84%D9%85%D8%AA%D8%B7%D8%B1%D9%81%D8%A9> (Last access November 4, 2016)

Qur'anic texts that encourage peaceful coexistence such as the treaty between the prophet Mohammed "peace be upon him" and the Jews of Medina.⁸¹³ The awful terrorist actions committed by these extremist groups result from this misunderstanding, as they do not believe in the multiplicity of creed, thought, or religion.⁸¹⁴ Al-Azhar University Deputy, Dr. Abbas Al-Shoman, said:

"Terrorist groups do not know the basic axioms or principles of Islam. Neither do they know the notations and interpretations of the texts. The armed terrorist organizations do not have a religious baseline. Instead, they use religion to justify their crimes and tempt the eager Muslim youth to join them."⁸¹⁵

This section will focus on two terrorist groups that ascribe themselves to Islam: Al-Qaeda and ISIS. These two terrorist groups are different from other extremist groups in the fact that it could spread to many regions around the world. Choosing these two terrorist groups is very important for understanding the position of Islamic law on extremist speech that is spreading due to the development of communication means including social networks. The groups' speech is becoming more dangerous to Muslims than others are, because non-Muslims and unaware Muslims may actually think that Islam does promote such terrorist acts. Since this is not the case, it is necessary to analyze this brand of speech from traditional Islamic point of view.

5. 2. 2. The Two Most Prominent Terrorist Groups

5. 2. 2. 0. Al-Qaeda Organization

In the year 1996, Al-Qaeda declared Jihad against foreign forces to expel them from the Islamic land.⁸¹⁶ Bin Laden announced the fatwa to legislate it (we will specifically analyze this

⁸¹³ Ibid.

⁸¹⁴ Ibrahim Saleem, Etiquette of Communication, Ittihad Newspaper, UAE, visa:

http://www.alittihad.ae/investigations_details.php?id=293&pid=1 (Last access November 4, 2016)

⁸¹⁵ Mohammad Al Sharif, A Press Meeting with Dr. Abbas Al-Shoman, Published on 11.9.2015, Number: 15484, Alyoum Newspaper, Cairo, via: <http://www.alyaum.com/article/4098745> (Last access November 4, 2016)

⁸¹⁶ After defeating the Soviet forces in Afghanistan in the eighties, the jihadists went back home. The name Al-Qaeda goes back to an article written by Abdullah Azzam in a magazine called "Al-Al-Qaeda Al-sulba," "the solid base" issued in Afghanistan with the aim of founding a database of the jihadists in Afghanistan. Afterwards, the idea of global jihad was formed and became the main activity of Al-Qaeda. Al-Qaeda wanted to repeat the Afghanistan experience, so they joined the fight in Bosnia, Tajikistan, and Chechnya. Researchers believe Al-Al-Qaeda was founded in 11-8-1988 during a meeting between a number of the Egyptian Islamic Jihad leaders and Osama bin Laden. In fact, the true beginning of this terrorist organization coincided with the Iraqi invasion of Kuwait and Saudi Arabia. The Saudi government decided to ask the American forces for help, which bin Laden completely rejected. He believed that having foreign forces on the Land of the Two Holy Mosques is a violation of the sacred land. After that, he was exiled to Sudan, where he started the Al-Qaeda organization with the help of

fatwa throughout the section). The fatwa was considered a declaration of war against the United States and its allies. On 23-2-1998, Osama bin Laden joined the leader of the Egyptian Islamic Jihad, Ayman Al-Dhawahery, and three other Islamic leaders to form the International Islamic Front for Jihad against Jews and Crusaders. They signed and issued a fatwa to call people for fighting America and its allies (this fatwa will also be discussed in detail in this section). Neither bin Laden nor Al-Dhawahery were qualified in any way to issue a legal fatwa. This proves that the group had only little knowledge when it came to Islamic rules and legislation. As a result to such discourse, many terror events took place, like the events of September 11th that were of the most destructive terror attacks in the history of America and the entire world. Afterwards, the United States and its allies began to notice Al-Qaeda until their leader, bin Laden, was assassinated in May 2011 in Abbottabad, 120 kms from Islamabad. The raid was supervised by the Central Intelligence Agency and executed by the American army.⁸¹⁷

In their speech, Al-Qaeda and their leader always depended on giving cultural and religious implications and some deviant interpretations to promote their terrorist acts, rejecting modernity and globalization and stressing the injustice of the United States and its role in invading the Islamic countries⁸¹⁸ Al-Qaeda realized the importance of discourse to spread their thoughts via the Internet. In the beginning, their Speech were published using traditional means of communication, such as letters, books, tapes, and writings. These means were slow and their circulation was limited. In 1995, some extremists began to use e-mails, and so, the first communication between

Hassan Al-Turabi. Bin Laden then began the speech of hostility towards the Saudi government. In the year 1994, Saudi Arabia denationalized bin Laden and his family. In the same year, Taliban conquered Kandahar and then the capital, Kabul, in September 1996. Later in 1996, Sudan expelled bin Laden and his group; and so he headed to Afghanistan, which was under the authority of Taliban, where Al-Al-Qaeda would find the perfect spot to begin their terrorist actions. For more information about Al-Al-Qaeda Organization, See Islamist movements Gate, Osama bin Laden "Al-Qaeda's Leader", Published on 02-15-2015, via: <http://www.islamist-movements.com/26612> (Last access December 31, 2016)

⁸¹⁷ Kate Zernike & Michael T. Kaufman, The Most Wanted Face of Terrorism, The New York Times News, Published on MAY 2, 2011, via: <http://www.nytimes.com/2011/05/02/world/02osama-bin-laden-obituary.html> (Last access December 31, 2016)

⁸¹⁸ The 9/11 Commission Report, Find Report of the National Commission on Terrorist Attacks Upon the United States "Executive Summary", p. 3

extremist groups was recorded.⁸¹⁹ After the prevalence of the Internet and information revolution, Al-Qaeda started their first website in the year 2000.⁸²⁰

Islamic scientists had a clear position on Al-Qaeda and their leader. The Permanent Committee for Islamic Research and Fatwa issued a fatwa to alarm people about this organization.

“Islamic scientists state that the perverse Osama bin Laden and Al-Qaeda are corrupted, and the awful crimes they commit have only brought shame and destruction to Islam and Muslims. Every sane, let alone educated, person can easily realize the perversity of the road they are taking. It is forbidden for every Muslim to join Al-Qaeda, accept its deeds, or cover up for its members. The Prophet –peace be upon him- said, “Allah curse him who accommodates an innovator.”⁸²¹

5. 2. 2. 1. ISIS (Daesh)

ISIS is an armed terrorist organization that adopts extremist thought. It began to rise in Iraq as “the Islamic State” under the leadership of Abu Bakr Al-Baghdadi. Their announced goal was reviving the Islamic Caliphate and executing Islamic Sharia as they saw it.⁸²²

⁸¹⁹ Farooq Ahmed, Islamic Scholars: These Evidences of Daesh Astray and Its being Away from Islam, Published on 7-3-2015, Alyoum Newspaper, via: <http://www.assakina.com/fatwa/73163.html> (Last access November 6, 2016)

⁸²⁰ The website had the organization’s logo, and it became responsible for publishing Al-Qaeda’s statements. After the website, Al-Qaeda started spreading their messages, issuing e-magazines, and recruiting people who agreed with their thoughts. Later on, the Egyptian Islamic Jihad movement –Al-Qaeda’s main ally- launched a website under the name (Ma’alem al-Jihad) with Al-Qaeda’s logo. The Islamic Jihad Movement also started an alternative website in Pakistan that focused on publishing the suicide attacks and justifying them. In 2001, publishing their speeches on different websites became the most apparent feature of Al-Qaeda’s discourse. At that time, the leaders supervised the websites themselves. With time, the Internet became the only means of communicating Al-Qaeda’s discourses, as their members were targeted by America and the whole world. See Farooq Ahmed, Islamic Scholars: These Evidences of Daesh Astray and Its being away from Islam, published on 7-3-2015, Alyoum newspaper

⁸²¹ Fatwa no. 25041 in 2-10-2011, Islamic Research Journal, Volume. 94, p. 382, The General Presidency of Scholarly Research and Ifta.

⁸²² The Group was first announced on 15 October 2006 after a meeting of a number of armed factions, as part of the “Helf al-Mutayyabeen” Treaty. Abu Omar al-Baghdady was named Caliph, and after he was killed on 19 September 2010, Abu Bakr al-Baghdady took over the leadership. Jabhat al-Nusra (al-Nusra Front) was formed in the Levant after the outbreak of the Syrian civil war in late 2011. In 2013, Abu Bakr al-Baghdady announced –in a spoken message via the “Shumoukh al-Islam Network”- that Al-Qaeda’s branch, Jabhat al-nusra, was united with ISIS under the name “the Islamic State in Iraq and Levant.”

On 29 June 2014, ISIS announced establishing the Islamic State in Iraq and Levant on the principle of the Islamic Caliphate. They directed Muslims to pledge allegiance to Abu Bakr al-Baghdady as their Caliph. The organization’s spokesman, Mohammed al-Adnany, announced that the terms “Iraq” and “Levant” were deleted from the State’s title to indicate their denial of boundaries and faith that the whole world should be under their authority. This shows how they inherited Al-Qaeda’s misconception of Islamic Jihad and freedom of religion. ISIS had belonged to Al-Qaeda when it was under the authority of Abu Mus’ab al-Zarqawi, and they pledged allegiance to bin Laden. After the events in Syria, ISIS started to deviate from Al-Qaeda and form their own organization. It is noteworthy that all terrorist organizations that ascribe themselves to Islam had started as part of Al-Qaeda and then broke off

ISIS used new forms of discourse that helped them spread rapidly. Of the most common means used by ISIS to spread their thought were the social media websites such as Facebook, Twitter, and Skype.⁸²³ ISIS's terror goes beyond the weapons on its members' arms; it includes the discourse used to spread its psychological terror. Their discourses provoke racism and communalism among the people of the same country, as they are full of obsolete terms such as crusader coalition and apostates. Their leaders employ historical discourses to add a historical feature to the war they lead.⁸²⁴ A report of Observatory of Takfiri Fatawa and Extremist Views issued by Dar al-Ifta al-Misriyya (Egyptian institute of Fatwas) in its thirty-first fatwa decided that they publish Speech in three languages; Arabic, English, and French. The most commonly used language by ISIS members on the Internet is Arabic at a percentage of 73%, followed by English and French at percentages of 18% and 6%, respectively. The use of other languages does not exceed 1%. The report also says that the terrorist group ISIS added the Russian language in order to deliver their terrorist ideology and messages to certain members who come from Chechnya, Uzbekistan, and Dagestan and speak Russian.⁸²⁵

ISIS is an example of organized terrorism, using organized discourse that depends on showing the wars and aggression held against Muslims to manipulate the Muslims' emotions towards armed fighting under the name of Jihad and defending Islam and Muslims.⁸²⁶ ISIS has taken a new form of discourse, as it now uses high-tech equipment to record and publish the killings under the name of "implementing the legal punishment." Their speech does have impact on the youth, and they may even encourage them to kill their parents or relatives, like what happened in Saudi Arabia.⁸²⁷

due to conflicts on whom to assign as the leader, the emir of the believers, or the Caliph. Indeed, it was such a conflict that caused Jabhat al-Nusra to break off from ISIS. For more information about 'ISIS', see Sebaee Ibrahim, Al-Azhar: «Daesh» are the Kharijites and Aggressors that We Must Fight them, Published on 5-18-2015, Riyadh Newspaper no. 17129.

⁸²³ Regional Center for Strategic Studies - Cairo (RCSS) , Mechanisms that "Daesh" Uses for Recruiting Youth, Published on 10-20-2014.

⁸²⁴ Loai Ali, Observatory Fatwa: "Daesh" Aims to Spread Sectarianism and Racism among Muslims, Published on 9-9-2015, the Seventh Day Newspaper.

⁸²⁵ Ibid

⁸²⁶ Farooq Ahmed, Islamic Scholars: These Evidences of Daesh Astray and Its being Away from Islam, Published on 7-3-2015, Alyoum Newspaper, via: <http://www.assakina.com/fatwa/73163.html> (Last access November 6, 2016)

⁸²⁷ Khamis al-Zahrani, The Arrest of a Young Man Killed his Parents with Knives, Published on 10-23-2016, alarabiya.net.

Experts in Islamic law have a clear position that rejects and condemns the actions of ISIS, and considers them to violate the rules and principles of Islamic law:

“The terrorist groups, including Al-Qaeda, ISIS, and Al-Nusra that found convenient conditions in areas of conflict in Iraq and Syria are committing a double crime. On the one hand, they bring destruction to Muslims’ homes and assets and disrupt their unity. On the other hand, they ruin the image of Islam and Muslims to the world on television with the crimes recorded and displayed that contradict true Islam.”⁸²⁸

5. 2. 3. Hate Speech by Al-Qaeda Organization

5. 2. 3. 0. Samples of Speech

In 1996, after bin Laden had left Sudan for Afghanistan, he began to speak against American citizens and allies. He issued his first statement against the American people in 1996, under the title (Declaration of Jihad to expel atheists out of the Arabian Peninsula). In that statement, he said, “This is a message from bin Laden to his Muslim brothers around the world, especially those in the Arab Peninsula. We declare jihad against the Americans who have invaded the land of the two holy mosques. Get these atheists out of the Arabian Peninsula.”⁸²⁹ Bin Laden and al-Zawahry issued a joint fatwa in 1998, under the title, “the global Islamic front to fight Jews and crusaders.” The texts of the fatwa included:

“Killing Americans and their military as well as civilian allies is an obligation for every Muslim. Muslims must fulfill this obligation in any country until Masjid al-Aqsa is liberated, and until their armies leave the Muslims’ lands. All Muslim scientists, leaders, and youth must launch attacks against the Americans, who are the devil’s soldiers. We – with God’s help- plead for all Muslims who want Allah’s reward, to execute his decree by killing Americans and capture their money whenever and wherever they find them. We plead with Muslims to launch attacks against the American devil forces, and their allies and supporters.”⁸³⁰

As a result of these fatwas and declarations, the world witnessed the events of September 11th in Washington, which were of the most destructive acts to ever happen in America and the

⁸²⁸ Statement of Senior Scholars on the Danger of Daesh, Issued by the Saudi Council of Senior Scholars on 9-3-2014.

⁸²⁹ Saeed Obaid, Al-Qaeda Organization: Growing and intellectual background, p. 283, Madbouly Library, First Edition 2008, Egypt - Cairo.

⁸³⁰ Ibid

world. An airliner ploughed into the North Tower of the World Trade Center in Lower Manhattan. A second airliner ploughed into the South Tower. More than 2,600 people died at the World Trade Center. A third airliner slammed next to pentagon, where 125 people died. A fourth airliner crashed in a field in Pennsylvania, and 256 people died.⁸³¹ The 9/11 Commission Report mentioned that:

“The 9/11 attacks were a shock, but they should not have come as a surprise... In February 1998, Osama Bin Laden and four others issued a self-styled fatwa, publicly declaring that it was God’s decree that every Muslim should try his utmost to kill any American ‘occupation’ of Islam’s holy places and aggression against Muslims.”⁸³²

5. 2. 3. 1. Analysis of Al-Qaeda’s Hate Speech through Traditional Islamic Law

Before getting into an analysis of Al-Qaeda’s discourses, it is only convenient to give a description of the discourses and the type of its advocates. The “Declaration of Jihad to Expel Atheists out of the Arabian Peninsula” came as an informal statement. Also Al-Qaeda used the form of fatwa to give it a religious feature. According to traditional Islamic law, hate speech or incitement is an independent crime. Thus, it does not matter in Islam who the perpetrators are, how much influence they have on others, or whether or not they have a formal position. It also does not matter where or how the discourse was issued. In Islam, the cases are regarded alike whether the speaker is an individual, like bin Laden’s statement in 1996, or a group, like the fatwa in 1998. In short, if a discourse is found through analysis to include the main criteria for hate speech (the content, the intention according to context, and abuse as a definite result), it is considered a form of hate speech in Islam. In order to know whether or not Al-Qaeda’s speech are considered by the Islamic law to be hate speech, we will analyze them according to the main criteria.

Al-Qaeda’s speech focused on recovering Islamic history and working to revive it at the present time. The speech usually contained some Qur’anic verses that they had interpreted according to their policies, and not necessarily according to the approved interpretation of books. In addition, their speech refers to everyone who disagrees with them as an enemy, and believe that the world is conspiring against Islam. In short, the content of their discourse clearly violates one of Islam’s constants, that is, Islamic values. Al-Qaeda’s speech violate three main human rights: the right to choose one’s religion, the right for life, and the right for thought. Al-Qaeda’s speech

⁸³¹ The 9/11 Commission Report, Find Report of the National Commission on Terrorist Attacks Upon the United States “Executive Summary”, p. 1-2

⁸³² Ibid

violated one of the Islamic moral values, which is the principle of respecting others. After Saudi Arabia had denationalized bin Laden and exiled him due to his request of not asking foreign forces for help, he felt complete rejection in the region. That is why he began to speak about Muslims' suffering around the world. He began to spread the idea that Islam was targeted by the USA and its allies such as KSA. As a result, his Speech violated the principle of respecting all others including civilians, like when he said, "Killing Americans and their military as well as civilian allies is an obligation of every Muslim." As the American forces only came to the Arabian Gulf based on a Saudi request to help them against Iraq, such rhetoric against the American people violates the principle of respecting others.

In addition, Al-Qaeda's Speech violated three basic human rights: the right for religion; life and free thought. In Al-Qaeda's Speech, it is obvious that they categorize people by religion. They see themselves as the true representatives of Islam, and anyone who opposes them is an atheist who deserves to be killed. This is clear in the fatwa of 1998 "Killing Americans and their military as well as civilian allies is an obligation of every Muslim." and in their appeal to launch attacks against "American devil forces, and their allies and supporters." From the words "civilians," "allies," and "supporters," we conclude that Al-Qaeda believes that disagreement in political orientation is a religious disagreement. The Speech content shows that they believe that one is either their ally or their opponent. Whoever disagrees with them is considered an opponent even if this person is peaceful, and this violates the rights for thought and religion.

The content of Al-Qaeda's speech reinforces their rejection of religious plurality and supports their view that Islam is the only religion Al-Qaeda is willing to allow. The group's principle is that whoever opposes them loses the right for protection and deserves to be killed. This shows in all their speech that encourage killing civilians as well as Muslims who ally with or support western governments. Therefore, the content of their speech violates the right for a decent life to all humans regardless of their religion or beliefs. This makes it impossible for followers of different religions to coexist in peace. Therefore, the contents of Al-Qaeda's speech violate the principle of respecting all others, which is an important value in Islam. They also violate the right for thought, life and religion, which are important rights granted for humans by Islamic law. This shows that the element of content has been achieved in their speech.

With determining the context of Al-Qaeda's Speech, it will be easier to identify the intent of those responsible for this speech, whether it be an individual or a group. First, Incitement is evident in the statement that "Killing Americans and their military as well as civilian allies" is considered as a religious "obligation of every Muslim." They insert religious texts from the Qur'an and the Sunnah to justify killing their opponents. Quoting religious rulings and references aims at influencing the recipient to accept the provocation as a decree. Second, Al-Qaeda called in all their Statements, for violence and violation of rights. For example: the fatwa of 1998 appealed to all Muslims to "kill the Americans and capture their money wherever they find them", and Bin Laden's statement: "Get the atheists out of the Arabian Peninsula." The third context is calling for hatred and hostility. It is noted that Al-Qaeda always supports their speech with religious implications to perceive others as enemies that Muslims should hate. For example, considering killing the Americans as a religious "obligation of every Muslim." When the audience receives the speech with these religious pleas, it is more likely that they will be influenced by it. In addition, Al-Qaeda always describes the Americans as "invaders" to provoke hatred in the recipient's mind against America and its allies. Insulting is the fourth context used by Al-Qaeda. Insulting is common in Al-Qaeda's speech, like when the fatwa of 1998 described the Americans as "the devil's soldiers." The description is similar to the one used by the Khomeini revolution that always described America to be the "greater devil." Therefore, these contexts proved the intent of hate speech by its promoters.

As previously mentioned, if an abuse results from a speech, it is deemed hate speech. It is clear that Al-Qaeda's speech abused and caused actual harm to the Americans and the Saudi government. They even caused harm to most countries and communities except for Iran. The harm included terrorist attacks all around the world, the gravest of which were perhaps the attacks of September 11th that left more than 3,000 dead.

According to the concept of hate speech" from traditional Islamic law, this speech issued by Al-Qaeda stand condemned by Islam. This is because the content of the speech violates Islamic constants and basic human rights, the intention of the issuers was to spread hatred and hostility, the speech resulted to offend Muslim and non-Muslim communities, especially in the United States, which witnessed a number of terrorist attacks such as 9\11.

5. 2. 4. Hate Speech by ISIS

5. 2. 4. 0. Samples of Speech

ISIS has published many controversial speech that led to actions of violence. Their speech after the violent attack in Paris on 13\11\2015 was the most dangerous one, as it included various contents, multiple contexts, and grave results. Under the name “Paris Raid,” ISIS claimed on Saturday 14\11\2015 responsibility for the terrorist attacks against Paris on the previous day. The statement included information about how the attack was executed and the reasons behind it. The following are some texts from ISIS’s statement “A Statement on the Blessed Paris Raid against the Crusaders of France,”⁸³³ which was issued in Arabic and French.

“In a blessed attack for which God facilitated the cause for success ‘a faithful group of the soldiers of the Caliphate ‘may God dignify it and make it victorious ‘launched out ‘targeting the capital of prostitution and obscenity ‘the carrier of the banner of the cross in Europe (Paris) ‘youths who divorced the world and went to their enemy seeking to be killed in the cause of God ‘in support of His religion and His Prophet ‘God’s peace and blessings be upon him and.... ‘and to put the nose of his enemies in the ground. So they were honest to the God ‘we consider them thusly ‘and God conquered through their hands and cast in the hearts of the Crusaders horror in the middle of their land.”⁸³⁴

“Let France and those who walk in its path know that they will remain on the top of the list of targets of the Islamic State ‘and that the smell of death will never leave their noses as long as they lead the convoy of the Crusader campaign ‘and dare to curse our Prophet ‘God’s peace and blessings be upon him ‘and are proud of fighting Islam in France and striking the Muslims in the land of the Caliphate with their planes ‘which did not help them at all in the streets of Paris and its rotten alleys. This attack is the first of the storm and a warning to those who wish to learn.”⁸³⁵

As a result of that speech, ISIS carried out a series of bombing attacks on 22 March 2016. The attacks targeted the airport and the central metro station in Brussels, Belgium, which is one of the countries in the international coalition against ISIS. The casualties were more than 230 dead and injured. ISIS then issued another statement to confirm the previous one about France. (A Statement on the Blessed Brussels Raid against Crusader Belgium).⁸³⁶

⁸³³ For more details, Read Official ISIS Announcement on Paris Attacks via:

<https://www.paldf.net/forum/showthread.php?t=1180950&page=27> (Last access December 31, 2016)

⁸³⁴ Ibid

⁸³⁵ Ibid

⁸³⁶ For more details, Read Official ISIS Announcement on Brussels Attacks via:

<http://heavy.com/news/2016/03/official-isis-announcement-state-on-belgium-attacks-bombings-attack-brussels->

“We promise black days for all Crusader nations allied in their war against the Islamic State in response to their aggressions against it. What is coming will be more devastating and bitter by Allah’s permission.”⁸³⁷

A new form of speech was the video containing the burning of the Jordanian pilot, Muath al-Kasasbeh. The video showed the inhumane execution of al-Kasasbeh. It was a new method that had never been applied by any extremist group before. The video was filmed in a way similar to movie making, it contained visual and sound effects to serve as a speech addressing the whole world and aiming at spreading fear and terror. It was meant to weaken the spirits of the coalition soldiers who attacked the group’s sites.⁸³⁸

5. 2. 4. 1. Analysis of ISIS’s Hate Speech from Viewpoint of Traditional Islamic Law

Before getting into analyzing ISIS’s discourses, it is only appropriate to present forms of their speech and the type of its cohorts. ISIS used the statement form; statement on the Blessed Paris Raid against Crusader France, and statement on the Blessed Brussels Raid against Crusader Belgium, came in the form of formal speech issued by the group. Also, the video of al-Kasasbeh’s execution was a new form of speech that particularly addressed pilots who served with the International Coalition against ISIS.

According to traditional Islamic law, hate speech is an independent crime. Thus, it does not matter in Islam who the speakers are, how much influence they have on others, or whether or not they have a formal position. It also does not matter where or how the speech was issued. In Islam, it is the same whether those behind it are individuals, or a group, like the speech this section is about to analyze. Thus, if the speech is found—through analysis—to achieve the main elements of the definition of hate speech (the content, the intention according to context, and abuse as a definite result), it is considered hate speech in Islam. In order to know whether or not the speech of ISIS is considered by Islamic law to be hate speech, this section will analyze them according to

[paris-attacks-france-amag-news-agency-terrorism-bombs-tweet-twitter-english-translation/](#) (Last access December 31, 2016)

⁸³⁷ Ibid

⁸³⁸ Ayman al-Gergawi, Professional abilities of ISIS as appeared in the video of Kasasbeh's execution, aljazeera.net, via: <http://www.aljazeera.net/news/reportsandinterviews/2015/2/4/%D9%82%D8%AF%D8%B1%D8%A7%D8%AA-%D8%A7%D8%AD%D8%AA%D8%B1%D8%A7%D9%81%D9%8A%D8%A9-%D9%84%D8%AA%D9%86%D8%B8%D9%8A%D9%85-%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9-%D8%A8%D9%81%D9%8A%D8%AF%D9%8A%D9%88-%D8%A5%D8%B9%D8%AF%D8%A7%D9%85-%D8%A7%D9%84%D9%83%D8%B3%D8%A7%D8%B3%D8%A8%D8%A9> (Last access December 31, 2016)

the main elements of the definition of hate speech. ISIS's speech depend on the use of some Qur'anic verses that they have interpreted in a way suits their principles. The speech also focus on the historical battles against Crusaders, and how they had never ended. In short, the content of their speech violated one of the Islamic values, which is the principle of respecting others. The content, also, violated two basic human rights, the right for life and the right for religion.

All ISIS's statements violated the principle of respecting others. For example, their description of Paris as "the capital of prostitution and obscenity," its streets as "rotten," and its Minister of Foreign Affairs as a "fool." In addition, the statement included their saying that "hundreds of apostates had gathered in a profligate prostitution party." This shows that they have no respect for the people living in Paris, who represent many different nationalities. What they called "a profligate prostitution party" is not considered wrong or forbidden by the French people, and even if it were, ISIS has no right to deal with the matter, especially in that inhumane fashion.

In addition, ISIS's speech clearly rejects people's right for religion; they believe that all people should be Muslims and should support them. Their speech's content violated the sacredness of life because of the disagreement regarding religion. The group justified these terrorist acts by saying that they aim at retrieving Muslims' long lost rights, and that they should govern the whole world, leaving everyone who disagrees with them or opposes their methods as their enemy. This shows in their speech, when they say: "Let France and those who walk in its path know that they will remain on the top of the list of targets of the Islamic State and that the smell of death will never leave their noses as long as they lead the convoy of the Crusader campaign;" and, "We promise black days for all Crusader nations allied in their war against the Islamic State." The content of the Speech declared that if others are not Muslim and not ISIS supporters, then he belongs to the atheists' camp, which fights against the "Muslim camp." This shows how they rejected religious plurality, believing that Islam should prevail, and that any opponent loses the right to a protected life. For example, with the content, "who walk in its paths" and "black days for all crusaders," peaceful coexistence becomes impossible; and this contradicts the Islamic principles that allowed our prophet to coexist and ally with the Jews in Medina. The bottom line is that ISIS's speech contents clearly violate the right for life and the right for religion, granted by Islamic law.

The term “Crusaders” was often used in ISIS’s speech, which denotes contempt and disrespect, and shows that the war made on ISIS has a religious basis. For example, the phrases: “the carrier of the banner of the cross in Europe (Paris),” “as long as they lead the convoy of the Crusader campaign,” they “are proud of fighting Islam in France and striking the Muslims in the land of the Caliphate with their planes,” “we promise black days,” gives the impression that the war between Muslims and the Crusaders is still on, and it always will be. This, of course, makes peaceful coexistence impossible. In addition, this violates the principle of respecting divine religions, which includes respecting others’ religion and rituals. According to the Quran, God said: “To you your religion, and to me my Religion.”⁸³⁹ The first treaty in Islam called for coexistence and respect of others’ right for religion. This treaty guaranteed freedom of religion as it stipulated that: “Jews were recognized as a separate community allied to the Muslim followers.”⁸⁴⁰ In addition, Islam forbade Muslims to revile other religions, according to the Quran that states: “Revile not ye those whom they call upon besides God, lest they out of spite revile God in their ignorance.”⁸⁴¹ In summary, the content of these types of speech clearly violated an important value in Islam, which is, respecting others. It also violates the rights for life and religion, which are of the basic rights granted by Islamic law. The speech also shows contempt for divine religions and considers war waged against the group to be of a religious nature, which makes coexistence impossible. Thus, the element of content of hate speech has been achieved.

By defining the context in which ISIS’s speech that took place, it will be easy to determine the intention of the one making the speech, whether a group or an individual. First, Incitement is clear in most of the speech’s details, starting with the titles that consider the other to be an enemy in a war. The title of the first speech was “Statement on the Blessed Paris Raid against Crusader France,” and the title of the second was “Statement on the Blessed Brussels Raid against Crusader Belgium.” Also, ISIS used the word “raid” in their speech, which means, according to the English dictionary, “a short sudden attack, usually by a small group of people.” In Islam, a raid means making a war on the enemy and fighting them on their land. According to these definitions, we realize that the use of the word “raid” aims at provoking war, and we see that the group depends

⁸³⁹ The Quran, verse (109:6).

⁸⁴⁰ John L. Esposito, *Islam: The Straight Path*, Oxford University Press, Revised Third Edition (2005), New York, p.9. See also Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, p. 53, Center of Islamic Research and Studies, Iraq, Baghdad, (2008)

⁸⁴¹ The Quran, verse (6:108).

on religious and historical implications to confirm that the war is mainly religious. In addition, ISIS described the raid as being “blessed” to convey a message that it is a fair war, and this description is considered an indirect provocation. Moreover, they used the word “crusader” to describe “Belgium” and “France” to emphasize that the reason for war is the religious disagreement. The statements’ titles show that ISIS wanted to justify their terrorist crimes with historical and religious phrases to provoke the recipient. Describing Paris as “the capital of prostitution and obscenity.” makes it easier for the recipient to consider the other as an enemy, and accept being provoked against them. Lastly, direct Incitement, which was common in this speech. For example, “the smell of death will never leave their noses.”

Second, the speech was issued after violent attacks and included calls for more violence in the future. For example, “Let France and those who walk in its path know that they will remain on the top of the list of targets of the Islamic State,” “This attack is the first of the storm and a warning to those who wish to pay heed,” and “What is to come will be more devastating and bitter by Allah’s permission.” In addition, the material of the video that contained burning the Jordanian pilot was a frank call to violence against anyone who participated in or supported the coalition forces against ISIS. Third, all speech was issued in a context that called for hatred and hostility, through considering all French and Belgians as enemies in the war against Islam, and conveying that they all deserved to be killed. This shows in their saying, “God conquered through their hands and cast in the hearts of the Crusaders horror in the middle of their land.” Many implications in the speech give the recipient the image that Europe and the other allies are enemies of Islam. They used religious texts, interpreted in a way to suit their crimes, so that they can reinforce hatred and hostility towards others. The phrases that call for resentment include, “fighting Islam,” “enemies,” “crusader,” “obscenity,” “and prostitution.” Fourth, ISIS’s speech was full of insulting and name-calling, such as describing Paris as “the capital of prostitution and obscenity,” and calling the French Minister “a fool.” Cursing is expected in the extremist groups’ speech, but ISIS also cursed cities and civilians. These are the main contexts of ISIS’s speech that proved the intent of hate.

ISIS’s speech expressly abused the French, the Belgians, the Europeans, and all the countries that joined the coalition against them. Although this abuse is enough to classify the speech as “hate speech”, there were more serious consequences to those offenses. The speech that followed the Paris attack resulted in the attack in Brussels, and the speech that followed the Brussels attack

resulted in catastrophic events all around the world—as published through media. In addition, the video of al-Kasasba’s execution led to similar acts, like the two Saudi ISIS members who executed their cousin, the Saudi soldier, and the two teenage ISIS members who killed their mother and seriously injuring their father and brother with a knife.

In summary, the speech issued by ISIS are condemned by Islam. This is because the content of the speech violates Islamic constants and basic human rights, the intention of the issuers was to spread hatred and hostility, and the speech resulted in offenses to Muslim and non-Muslim communities, especially the European countries that joined the International Coalition against ISIS. The speech had more dangerous results, as they led to acts of violence as we see all over the media on a daily basis.

5. 2. 5. Conclusion

The Position of Islam on speech issued by the two most prominent terrorist organizations that ascribe themselves to Islam. Terrorist groups issue many speech that incite hatred and violence. It is obvious that these groups give their speech a “religious cover” to serve their political purposes. In their speech, they call for violence and hostility under an Islamic cover.⁸⁴² The road they take is not relevant to Islam’s principles that call for peace, coexistence, and respect of the other.⁸⁴³ This speech is a mean method that aims at influencing the targeted youth through social media and encouraging them to commit terrorist crimes.⁸⁴⁴ The danger of such speech is increasing, as they are more easily spread via the Internet to every country and community. The speech targets global security, because they tend to exclude all others, and reject religious and cultural plurality. They rely on historical events and misinterpretations of Islam in order to achieve political goals and strengthen their authority.

ISIS’s speech always targets enthusiastic youth through strong materials that convey scenes of violence and battles as heroic acts. The speech portray the Muslim community as oppressed and unjustly treated, and suggest that the only solution is violence to overcome the injustice. Since these groups do not have an official capacity, they cannot be punished according to local or

⁸⁴² Speech of UAE Foreign Minister Abdullah bin Zayed Al Nahyan, Before the United Nations General Assembly, via: <https://www.youtube.com/watch?v=ziKwRg5xFaw> (Last access November 12, 2016)

⁸⁴³ Ibid

⁸⁴⁴ Ibid

international regulations. Although vanquishing these groups requires a military approach, the fact that their speech can easily cross the globe due to new technology requires a comprehensive awareness approach to prevent the youth from responding to them.

5. 3. The Position of Traditional Islamic Law on Hate Speech during the Arab Spring

5. 3. 0. Introduction

Arab spring refers to the series of violent or peaceful revolutions, demonstrations, and protests held by some of the Arab population against their governments to demand their rights and freedoms and reject injustice and corruption.⁸⁴⁵ The revolutions started in late 2010 and early 2011 in Tunisia, then Egypt, then Libya, and Syria where the revolution is still on.⁸⁴⁶ The Arab media gave these revolutions the name “the Arabian Spring” to denote two meanings. The first was renovation to achieve better life conditions, and that was the objective of the protests. The second was the optimism and hope that usually accompany the spring season, and would naturally prevail with the freedom and democracy sought by the Arab people.⁸⁴⁷

5. 3. 1. Hate Speech in the Arab and Muslim Countries

The use of hate speech was not new to the Arab scene, but it became more frank and obvious with the revolutions and the Arabian Spring. An insight to the spreading of hate speech in the Arab and Muslim countries reveals that the speech was issued by two parties:

First, speech by the Muslim governments against political opponents and people. The clearest example is the Speech delivered by the past Libyan president, Muammar Gaddafi, who said about his people,:

“We are more worthy of Libya than those rats and those wage earners. Who are these wage earners who get paid by foreign intelligence? God damn them.”⁸⁴⁸ In Syria, Al-Assad followed in Gaddafi’s footsteps and attacked his opposition and the Syrian people that

⁸⁴⁵ Erzsébet N. Rózsa, The Arab Spring: Its Impact on the Region and on the Middle East Conference, Academic Peace Orchestra Middle, August 2012, p.1

⁸⁴⁶ Ibid.

⁸⁴⁷ Adel Safty, Arab Spring .. What does It Mean?, through Alarabiya Net on 08-05-2011 via: <http://www.alarabiya.net/views/2011/08/05/160884.html> (Last access 13 August 2016)

⁸⁴⁸ Gaddafi: We're more Deserving to Libya than the Rats, via: https://www.youtube.com/watch?v=YsML_KfrB_s (Last access 13 August 2016)

objected his rule. He called them “germs that reproduce and are hard to extinguish. We can only work to strengthen our immunity against them.”⁸⁴⁹

Second, Speech by political groups that stole the peoples’ revolution to reach authority and achieve political gains. These groups delivered Speech that excluded and accused anyone who has different thoughts or religious orientation. All these types of Speech reinforced the Hate Speech on a religious basis. According to the Pew Research Center, the share of countries with a high or very high level of social hostilities involving religion reached a six-year peak in 2012. A third (33%) of the 198 countries and territories included in the study had high religious hostilities in 2012, up from 29% in 2011 and 20% as of mid-2007. Religious hostilities increased in every major region of the world except the Americas. The sharpest increase was in the Middle East and North Africa, which is still feeling the effects of the 2010-11 political uprisings known as the Arab Spring.⁸⁵⁰

Political Groups such as the Muslim Brotherhood in Egypt used mosques as centers to deliver extremist religious speech that called for violence.⁸⁵¹ This is a serious problem, because mosques are where Muslims gather daily or weekly to be informed about the matters of religion and society, and using them for political purposes may have serious consequences. In transitional periods after most Arab revolutions had succeeded, the speech of the political and religious movements was unstable. That was due to the political swings that resulted from the absence of a president. Revenge and exclusion became more apparent among different parties and movements, and incitement speech took over to provoke people against political, religious, and denominational opponents. As a result, during the transitional period, speech judging others as unbelievers and traitors became commonplace.⁸⁵²

⁸⁴⁹ Assad Competes Gaddafi in his Third Speech: He describes his opponents as "germs", via: <http://www.alarabiya.net/articles/2011/06/23/154481.html> (Last access 13 August 2016)

⁸⁵⁰ Religious Hostilities Reach Six-Year High, Pew Research Center, via: <http://www.chforum.org/2014/01/14/religious-hostilities-reach-six-year-high/> (Last access 13 August 2016)

⁸⁵¹ Walid Hosni Zahra, I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media, p. 33, Defending Freedom of Journalists Center, First Edition 2014

⁸⁵² Khaled Hanafy, The Secluded Coves: Patterns and Motives Political Hatred in the Region after the Revolutions, No. 3 from Versions of (the Situation of Region), Regional Center for Strategic Studies – Cairo.

The Arab revolutions sought to obtain freedoms, including the freedom of speech. However, religious and political movements crossed the lines of freedom of speech to hate speech, due to chaos and weakness of government authority during the transitional period.⁸⁵³ After the revolutions were over, the Arab countries went into internal political, social, and economic crises. They moved from struggles between the people and the leaders to struggles among the people's parties and orientations. The people that once united in the face of the unfair government rapidly broke down due to political, communal, and racial struggles. The scene that once reflected unity and revolution against injustice changed into a scene of vengeance where the media became a main player that could influence and direct these struggles. Thus, hate speech had the chance to occur and prevail.⁸⁵⁴

Hate speech in the Countries of the Arab Spring often come in four main types. First, hate speech between religious and liberal movements. The revolutions in Egypt, Tunisia, and Libya politically accentuated the Islamic movements, including both the Muslim Brothers group and the Salafists, after they had suffered from political exclusion at the time of dictatorial regimes. This led to serious conflicts between them and the civilian movements—liberal, leftists, and others, because they had different ideological plans and projects for the country and the society. Hatred was evident in the attempts of each group to defame the others at every political occasion, such as the constitutional referendum and the elections. The religious factions tended to call the others unbelievers and anti-religious, while the civil factions described the religious groups as retarded and narrow-minded.⁸⁵⁵ Second, hate speech among religions and doctrines. Hate speech between Sunni and Shia, as well as between Muslims and Christians became common in the whole region after the revolutions. It increased after the struggle in Bahrain, Syria, and Yemen had gained an internal communal aspect, and it reached countries where the number of Shia are too small to even form a minority, such as Egypt.⁸⁵⁶ Third, hate speech among followers of political currents. Hate speech among political movements dominated the scene through disrespecting political opponents

⁸⁵³ Ibid.

⁸⁵⁴ Walid Hosni Zahra, *I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media*, p. 144-145, Defending Freedom of Journalists Center, First Edition 2014.

⁸⁵⁵ Khaled Hanafy, *The Secluded Coves: Patterns and Motives Political Hatred in the Region after the Revolutions*, No. 3 from *Versions of (the Situation of Region)*, Regional Center for Strategic Studies – Cairo.

⁸⁵⁶ Mohammed Rumaihi, *A Look at the Future: Hate Speech*, Kuwait Journal, via: www.kuwaitmag.com (Last access 13 August 2016)

and calling them names that showed gloating. Examples include the dissolved National Party in Egypt, Democratic Constitutional Assembly in Tunisia, and Gaddafi's followers in Libya. Everyone who supported these parties were called a remnant even if they were not members of them. Even after the Muslim Brothers ruling had collapsed on 30 June 2013, hatred was clear between the supporters and opposers on June the 30th on different occasions. The media started to demand the army to clear out everything related to the Brotherhood after the Rabaa and al-Nahda massacres. On the other hand, the Brotherhood activists and electronic committees described those who supported Morsi's removal as "slaves of the military."⁸⁵⁷ Fourth, hate speech against countries. After the Arab revolutions had ended, some world powers started to intervene in these countries' internal affairs. This caused the revolutionists to show their rejection to such interference through expressing hatred. For example, a number of Egyptian demonstrations were organized to express opposition to American interference that seemed to be on the Brotherhood's side. They even held pictures of Obama and bin Laden to show that America supported violence like him.⁸⁵⁸

Hate speech was no longer exclusive to discrimination based on religious and political affiliations; they later included hate based on race and gender.⁸⁵⁹ This is due to four factors: ignorance, negative political employment, isolation, and the new means of communication.⁸⁶⁰ These factors actually harbored this type of hate speech and facilitated its prevalence. This chapter focuses on hate speech in Egypt as an example of hate speech in the countries of the Arabian spring, because Egypt is still suffering from this speech and it helped convey it to other Arab countries. Although Egypt has its important political, religious, historical, and cultural position, the Egyptian media paid no attention to this position and worked to reinforce the provocative speech and reject peaceful coexistence. This is why the speech in Egypt in the later years of the Arab spring was chosen for analysis.

⁸⁵⁷ Walid Hosni Zahra, *I Hate You: speech of Hatred and Sectarianism in the Arab Spring Media*, p. 144-145, Defending Freedom of Journalists Center, First Edition 2014

⁸⁵⁸ Ibid

⁸⁵⁹ Mohammed Rumaihi, *A Look at the Future: Hate Speech*, Kuwait Journal, via: www.kuwaitmag.com (Last access 13 August 2016)

⁸⁶⁰ Ibid

5. 3. 2. Hate Speech in Egypt during the Arab Spring

After the revolution in Tunisia in late 2010, a group of young Egyptian people gathered to prepare for a demonstration on the National Police Day, 1-5-2011. They demanded the removal of the Minister of Internal Affairs, and cancellation of the state of emergency. A large number of youth groups, such as the Brotherhood youth, the Popular Campaign to support the independent candidacy of ElBaradei to the presidency of Egypt 2011, as well as independent personalities cooperated to organize the demonstrations. These groups later formed a coalition of the 25th January Revolution. After the success of the 1-25-2011 demonstration, many political currents including the Muslim Brotherhood and the Wafd Party declared their participation in the following demonstration on 1-28-2011. During the revolution, many committees were formed to organize their actions, such as the Panel of the Wise, the Board of Trustees, and the Revolution Support Front.⁸⁶¹ However, after the success of their revolution and the removal of President Mubarak on 2-11-2011, the movements that participated in the revolution witnessed conflicts among them and between them and the military council, which led to the prevalence of hate speech.⁸⁶²

The military Council was in charge for eighteen months, during which the security status was unstable. The Egyptian media played an eminent role in orienting the public opinion toward demanding the council to respond to the revolution's claims. The council had refused to take Mubarak's followers to trial, or to involve the civil forces in the decision making process. The Report: Maspero. a Criminal, Political Incitement of Violence, Communalism, and Misleading the Public Opinion said, "The official Egyptian media is directly involved in the most serious political problems that led to the breakdown of peace and public safety in a critical moment in Egyptian history, that is incitement to violence and hatred, misleading, and intentional defamation, all of which provoked conflict among the society's categories."⁸⁶³ Human rights organizations emphasized the negative role the governments played after the 25th of January towards provocative speech. The different governments that followed 1-25-2011 revolution showed tolerance toward the aggravating hate speech on multiple occasions. It was because of such speech

⁸⁶¹ Bahjat Qarni, Arab Spring in Egypt: Revolution and Beyond, p.19, Lebanon - Beirut: The Center of Arab Unity Studies (2012)

⁸⁶² Ibid

⁸⁶³ Maspero Report: Between political Incitement to Violence, and Sectarianism, and Mislead Public Opinion, p. 6, Egypt - Cairo: Corporation of Freedom of thought and expression (2011)

that incited hatred to Christian citizens on television that an awful massacre known as “Maspero” took place. Many Egyptian Christian citizens died in the events. The incitement speech on religious channels resulted in the killing of a number of Shia Egyptian citizens in Abu Al-namros. The government took no serious actions against those responsible for the provocation.⁸⁶⁴ During the time of President Mohammed Morsi, the Muslim Brotherhood used their TV channels to spread speech of hate and hostility. The speech was religiously discriminating; anti-liberal; and hostile towards Christians, Shia, and all trends that opposed them.⁸⁶⁵

5. 3. 3. Hate Speech by the Muslim Brotherhood Group and Its Supporters

5. 3. 3. 0. Introduction

The Muslim Brotherhood group (also known as Muslim Brotherhood, Muslim Brothers, or Brotherhood) is one of the largest and oldest Islamic organizations in Egypt. It was founded by Hassan al-Banna in 1928.⁸⁶⁶ Since its early days, it has formed branches in all Egyptian governments.⁸⁶⁷ They had great influence on the Islamic movements around the world, because they connected their political activities with charity and reformation. As a result, their thought rapidly spread in Egypt and all Arab countries.⁸⁶⁸ According to al-Banna, the society’s political goals are:

- “1. Liberation of Muslim lands from any foreign ruler, a natural right for every human that only the unfair dictators would deny.
2. Establishment of a free homeland for the Islamic state that abides by Islam’s rulings, applies its social regulations, adopts its orthodox principles, and delivers its message.”⁸⁶⁹

Regarding the Muslim Brotherhood’s goals for the Egyptian people, al-Banna said:

⁸⁶⁴ Walid Hosni Zahra, I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media, p. 173-174, Defending Freedom of Journalists Center, First Edition 2014, Quoting: The Arabic Network for Human Rights Information.

⁸⁶⁵ Maspero Report : Between Political Incitement to Violence, and Sectarianism, and Mislead Public Opinion, p. 6-10, Egypt - Cairo: Corporation of Freedom of Thought and Expression (2011)

⁸⁶⁶ BBC Arabic, About the Muslim Brotherhood in Egypt, Published on 2-18-2014, via: http://www.bbc.com/arabic/middleeast/2013/07/130706_ikhwan_profile (Last access 13 August 2016)

⁸⁶⁷ Ibid

⁸⁶⁸ Ibid

⁸⁶⁹ Abdullah Hala, Analytical Reading in the Emergence of the Muslim Brotherhood, Published on 4-4-2009 through Nafithat Misr website, via: http://old.egyptwindow.net/Details.aspx?News_ID=361 (Last access 13 August 2016), Quoting: Hassan al-Banna, Book of the total messages, p. 14 & 140

“After these two goals, additional objectives are necessary for Egyptian society to become truly Islamic. Note, dear brothers, that more than 60% of the Egyptians live inhumane lives, that Egypt is still illiterate with the number of educated people not exceeding one-fifth of the population, and that crime is rapidly increasing at an exponential rate. Thus, the necessary objectives are: to reform education; fight poverty; ignorance; disease; crime; and give a worthy example of the Islamic sharia.”⁸⁷⁰

The Muslim Brotherhood has a long history in Egypt, and has played a pivotal role, whether positive or negative, in many political conflicts and religious issues.⁸⁷¹ In the first parliament elections after the 2011 revolution, the Brotherhood won and Mohammed Morsi became the legitimate president of Egypt in 2012.⁸⁷² In late 2012, the people started to oppose Morsi and the Brotherhood after Morsi made a temporary constitutional declaration to earn new authorities.⁸⁷³

After a few days of demonstrations held by the opposition, he agreed to cancel the declaration.⁸⁷⁴ Afterwards, President Morsi issued a decree that assigned the Egyptian military forces to protect the national organizations and the poll sites in order to perform a poll on the draft Constitution in December 2012.⁸⁷⁵ In early 2013, after the Egyptian people had approved the draft constitution, bloody clashes began between the president’s opposition and followers.⁸⁷⁶ The

⁸⁷⁰ Ibid, p.142

⁸⁷¹ In 1952, a group of Egyptian military officers, calling themselves “the free officers,” led a coup against the British occupation and ended its ruling in Egypt. The Muslim Brothers had an important role in that coup and wanted to cooperate with the new government. Soon after, the relationship between the Egyptian government and the Muslim Brothers witnessed tension. The Islamic Jurist, Sayyed Qotb led the opposition against the government through his writings that advocated Jihad against the pagan western and Arab communities. In the 1980s, the Muslim Brothers tried to rejoin the main political current in the country. They allied with Wafd Party in 1984, and with the Labour Party and liberal parties in 1987 to become the largest opposition force in Egypt. In 2000, the Brotherhood won 17 seats in the Egyptian People’s Assembly. In 2005, the Society’s independent candidates achieved—for the first time—20% of the seats in the People’s Assembly. In early 2011, they participated in the demonstrations that led to the removal of the former president Hosni Mubarak. For more information about the Muslim Brotherhood Group, see Tariq Hamo, *The Muslim Brotherhood in Egypt: Evolution and the Ups and Steep!*, Published on 7-6-2015 through NLK website, via: <http://nlka.net/index.php/2014-07-10-22-08-10/282-2015-07-06-18-14-14> (Last access 13 August 2016)

⁸⁷² Egypt Election Website, Election Results, Dr. Mohamed Morsi as President of Egypt, via: <http://elections.masreat.com/19302/> (Last access March 6, 2017)

⁸⁷³ Tariq Hamo, *The Muslim Brotherhood in Egypt: Evolution and the Ups and Steep!*, Published on 7-6-2015 through NLK website, via: <http://nlka.net/index.php/2014-07-10-22-08-10/282-2015-07-06-18-14-14> (Last access 13 August 2016)

⁸⁷⁴ Ibid

⁸⁷⁵ The Final Draft of the Constitution of Egypt 2012, via: <https://archive.org/details/TheFinalDraftOfTheDostorEgypt> (Last access March 6, 2017)

⁸⁷⁶ Lydia Smith, *Arab Spring 5 Years on: Timeline of the Major Events and Uprisings in the Middle East*, Published on January 25, 2016, International Business Times, via: <http://www.ibtimes.co.uk/arab-spring-5-years-timeline-major-events-uprisings-middle-east-1539085> (Last access March 6, 2017)

Egyptian army were concerned that such clashes could bring the country to a standstill.⁸⁷⁷ In April 2013, the opposition started a movement called “Tamarrod” or “revolt.”⁸⁷⁸ The movement aimed to collect signatures to register opposition to Morsi and object to the regime’s failure to regain security and achieve economic progress. The movement also accused the regime of favoring the Muslim Brotherhood’s interest to the interest of the people and called for large demonstrations to demand that Morsi leave.⁸⁷⁹

Chaos took over, and the number of casualties increased, so the Egyptian army warned Morsi on 7-1-2013 that they would take over unless he responded to the popular claims within 48 hours.⁸⁸⁰ Morsi did not submit to the army’s warning, and on 7-3-2013 the army suspended the application of the constitution and assigned the president of the Supreme Court to take over the president’s authorities.⁸⁸¹ The president and a number of prominent leaders in the Brotherhood were detained, and the supporters of the Brotherhood strongly condemned what they called the Egyptian Army’s coup against the elected president. They boycotted the assigned temporary president and held many strikes such as the Rabaa al-Adaweya Strike.⁸⁸²

Regarding the hate speech during the time of Morsi, a journalist wrote, “The hate speech that incited hostility and violence increased in the Egyptian media. The Islamic TV channels, such as the Brotherhood’s channel Egypt 25, and other channels like al-Hafez and al-Nass delivered communal anti-liberal content that justified the killing of Christians and shia.”⁸⁸³ After overthrowing the Muslim Brotherhood group, the speech was no longer in the streets but had

⁸⁷⁷ Ibid

⁸⁷⁸ - Al-jazeera, Movement " Revolt ", via:

<http://www.aljazeera.net/encyclopedia/movementsandparties/2015/3/8/%D8%AD%D8%B1%D9%83%D8%A9-%D8%AA%D9%85%D8%B1%D8%AF> (Last access 13 August 2016)

⁸⁷⁹ Ibid

⁸⁸⁰ The text of the Statement of the Egyptian Armed Forces on 7-1-2013, via:

<http://www.aljazeera.com/news/middleeast/2013/07/201373203740167797.html> (Last access 13 August 2016)

⁸⁸¹ The Text of the Statement of the Egyptian Armed Forces on 7-3-2013, via:

<http://www.bbc.com/news/world-middle-east-23175529> (Last access 13 August 2016)

⁸⁸² Tariq Hamo, The Muslim Brotherhood in Egypt: Evolution and the Ups and Steep!, Published on 7-6-2015 through NLK website, via: <http://nlka.net/index.php/2014-07-10-22-08-10/282-2015-07-06-18-14-14> (Last access 13 August 2016)

⁸⁸³ Walid Hosni Zahra, I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media, p. 180, Defending Freedom of Journalists Center, First Edition 2014, Quoting: Alarab Newspaper in London, Article of " The Internet is a way which the Brotherhood Used to Incite Violence After the Closure of Newspapers"

moved to the media, especially TV talk shows that addressed an illiterate easily influenced community.⁸⁸⁴ It is noteworthy that the political events in Egypt revealed the ethical and professional flaws in the Egyptian media. The state of disunity and exclusion of others is a very dangerous problem, and it is largely reflected in the media. The policies of most parties feature exclusion and rejection of plurality. Every faction works their best to attract people, and they use hate speech that induces hostility and violence.⁸⁸⁵ This section will focus on the speech issued in the media by the supporters of the military ruling and the supporters of the Muslim Brotherhood before and after the Brotherhood's collapse.

5. 3. 3. 1. Samples of Speech

A. On 1-27-2015, the Muslim Brotherhood Group issued a statement on its official website under the title "A message to the rebels: Prepare..."

1. The Muslim Brotherhood Group *said*; "We will first explain the expression "and prepare..." which the Muslim Brotherhood takes as its logo. All terms used in the logo refer to power: the two swords symbol; the word "prepare," which refers to power in the Holy Qur'an; and the three words under the swords: Right, which needs power; Freedom, which is achieved through power, and freedom."⁸⁸⁶

2. Also, the statement declared that: "The Group's founder, Hassan al-Banna, devoted his attention to forming scout teams that emphasized fitness and discipline, and these are the main features of power."⁸⁸⁷

3. The statement added:

"Imam al-Banna -May Allah be merciful to him- said, 'the nations aspiring to have power also need to give their sons the soldiers' form, especially at times where peace cannot be

⁸⁸⁴ Walid Hosni Zahra, *I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media*, p. 18, Defending Freedom of Journalists Center, First Edition 2014.

⁸⁸⁵ Ibid, Quoting: Cairo Center for Human Rights

⁸⁸⁶ A Message to the Rebels: Prepare..., Published on 01-27-2015, Ikhwanonline.com, via: <http://www.ikhwanonline.com/Article.aspx?ArtID=220195&SecID=211> (Last access December 31, 2016)

⁸⁸⁷ Ibid

granted without preparation for war. The slogan of their sons has now become ‘Power is the best way to apply righteousness.’”⁸⁸⁸

4. The statement also added some of al-Banna’s sayings:

“The nation is good at the industry of death; it knows how to die an honorable death. Allah gives this nation a decent living in this life and an eternal bliss in the afterlife. The only weakness that humiliates us is the love of life and hate of death. Prepare yourselves for great acts, and devote yourself to death, and life will be given to you. Work to earn that honorable death, and you will achieve complete happiness. May Allah bless us with dying as martyrs. The Muslim Brothers turn to using power when other methods fail, and when they believe they have reached faith and unity. Everyone must realize that we are about to enter a new stage where we need to recall our inner strength and remember the meaning of Jihad. We must prepare ourselves, our wives, sons, daughters, and everyone who follows our road for a long and restless jihad, by which we ask Allah to reward us with martyrdom. And Allah will surely support those who support Him. Indeed, Allah is Powerful and Exalted in Might.”⁸⁸⁹

B. Speech by the Muslim Brotherhood’s supporters:

In his article “Egyptians under the Control of the Tyrants,” Dr. Ammar Jaydal described the Egyptian army as “tyrants” and “germs.” He said,

"Such dark times are what the tyrants want Egypt to continue having. We are sure that such methods and behaviors will lead to their end. They are like worms infecting the roots of the coup government; they will end up as black dots in history. No one will ever cry for them."⁸⁹⁰

5. 3. 3. 2. Analysis of Hate Speech Issued by the Muslim Brotherhood Group from Traditional Islamic Law

Before getting into analyzing the speech of the Muslim Brotherhood and its supporters, it is only convenient to give a description of the speech and the type of people that issue it. First, "A statement to the rebels: And prepare . . ." in the form of an official statement by the group and through its official website. Second, what Dr. Ammar said in the form of a news report that was published on 'Nafithit Misr' (Egypt's Window) under the title "Egyptians under the Control of the Tyrant." According to traditional Islamic Law, hate speech is a crime in itself; therefore, it is not required to examine the state of the speech giver or his location, whether it is formal and effective

⁸⁸⁸ Ibid

⁸⁸⁹ Ibid

⁸⁹⁰ Ammar Jaydal, Egyptians Under the Control of the Tyrants, Nafithat Misr Website, via: http://old.egyptwindow.net/ar_print.aspx?print_ID=34955 (Last access December 31, 2016)

or not. Also, there is no need to investigate the impact of speech nor the place and means of its release. Likewise, the definition does not take into consideration whether the pronouncer of the discourse is an individual, such as Dr. Ammar in his article, or a group such as the Muslim Brotherhood. If a speech is issued by a person or an association and it contains the fundamental elements, which are: content, intent according to the context, where causing offense is an inevitable result, or even worse effects, it is classified as hate speech. To know whether these Muslim Brotherhood's discourses are hate speech or not, from an Islamic law point of view, they should be analyzed according to the following basic elements of the definition of hate speech.

The Muslim Brotherhood's speech and their supporters' speech depend on selecting certain Quranic verses and explaining them according to their political purposes. Speech of the Brotherhood follow the same pattern as its founder Hassan al-Banna. The content of the speech depends on religious implications and the style rejects "others". In short, the content of such speech is a clear violation of one of the five constants of Islam, which is the Islamic values that are mainly about respecting others; and violation of the right for life and religion, two of the very basic human rights.

The content of speech violated one of the five Islamic values through violating the principle of respecting others. The content of the Brotherhood's speech or Dr. Essam's violates the principle of respecting others. The Brotherhood's depiction of the current situation as war against opposition and calling for jihad violate that principle. For example, they say, "Everyone must realize that we are about to enter a new stage where we need to recall our inner strength and remember the meaning of Jihad. We must prepare ourselves, our wives, sons, daughters, and everyone who follows our road for a long and restless jihad, by which we ask Allah to reward us with martyrdom." Through their speech, we also notice how they violate the principle of respecting others when they describe the Egyptian army as "tyrants" and "germs." They also say that the Egyptian army "will end up as black dots in history."

In addition, the content of the speech violated two of the basic human rights. The content of the speech of the Muslim Brotherhood and its supporters show others as non-Muslims. According to their belief, then, those others do not deserve to enjoy the right for life and religion. Considering the Islamic Brotherhood as the group that will retrieve the stolen rights of the

Muslims; here, the Brotherhood includes any opposing parties under the list of those to make Jihad against making them subject to murder. This is shown through the following speech:

"The nation is good at the industry of death, it knows how to die an honorable death"; the Brotherhood called its followers saying, "Everyone must realize that we are about to enter a new stage where we need to recall our inner strength and remember the meaning of Jihad. We must prepare ourselves, our wives, sons, daughters, and everyone who follows our road for a long and restless jihad, by which we ask Allah to reward us with martyrdom. And Allah will surely support those who support Him. Indeed, Allah is Powerful and Exalted in Might." Dr. Ammar also said, "We are sure that such methods and behaviors will lead to their end."

The content of such speech implies that anyone who does not follow them or agree with them is considered 'a non-believer' who fights Muslims. This is shown through their announcement for jihad and use of religious texts while facing their political rivals. The essence of what they say is that they refuse religious and political diversity. In fact, they believe that their method should be dominant. Anyone who opposes them does not have the right for life; s\he is subjected to murder. This is shown here, "The Muslim Brothers turn to using power when other methods fail, and when they believe they have reached faith and unity."

With such content, co-existence is rendered impossible. This, of course, opposes the teachings of Islam, which based its first covenant on co-existence with other religions. The content of such speech clearly and directly violates the right for life and religion; two basic rights protected by Islamic Law. In summary: the content of the speech violates the principle of respecting others, one of the Islamic values; and the right for life and religion, two basic human rights, protected by Islamic Law.

In order to identify the intentions of the Muslim Brotherhood and its supporters, we must analyze the contexts during which such speech were released. First, incitement clearly appears in most of the details of their speech. The title of their statement was, "Prepare" as an incitement to use murder against the Egyptians opposing the Brotherhood; the original meaning of the verse "And prepare against them whatever you are able of power," was a call for believers to fight the non-believers who fought against them. By using this verse, the Brotherhood labels all others as an enemy that must be fought. Incitement also appears through the use of Jihadi terms in order to encourage killing others in times of unofficial war. Such incitement is clear in most of the details

of the Brotherhood's rhetoric. Furthermore, it is clear to see incitement through describing others with names such as tyrants and black dots in history; such names make the recipient feel hateful and unforgiving towards such groups.

The second context is calling to violence. In its logo, the Muslim Brotherhood uses symbols that call for violence such as 'power' and 'the two swords.' In addition, the Brotherhood uses historical implications for using force; for example, "Hassan al-Banna, devoted his attention to forming scout teams that emphasized fitness and discipline, and these are the main features of power." They also said, "Devote yourself to death, and life will be given to you. Work to earn that honorable death, and you will achieve complete happiness. May Allah bless us with dying as martyrs. The Muslim Brothers turn to using power when other methods fail, and when they believe they have reached faith and unity. Everyone must realize that we are about to enter a new stage where we need to recall our inner strength and remember the meaning of Jihad." Such speech call for violence. They bring historical anecdotes and religious evidence so as to attract the recipients. They depict and implement their plans in a way that shows life as a war against an enemy; while the enemy here is a part of the Egyptian people.

Calling for hatred is the third context of their speech. In general, speech was released in the context of hatred, considering any opposing parties or groups, whether in their ideology, politics or religion, as enemies. Therefore, they justify standing up to them and fighting them. This is shown when they said,

"Such dark times are what the tyrants want Egypt to continue having. We are sure that such methods and behaviors will lead to their end. They are like worms infecting the roots of the coup government." In addition, the way they present their speech implies that any opposing groups are enemies of the Brotherhood, which is the true application of Islam, as they believe. They use the religious texts and explain them in a way that justifies their crimes in planting hostility and hate towards others. Fourth, the supporters of the Muslim Brotherhood usually release speech that is in an insulting context; they call those who oppose them 'tyrants,' 'germs,' and 'black dots in history.' Therefore, these are the most significant contexts through which the Brotherhood's speech and its supporters' emphasize the intention for hate speech, proving the presence of the second element for defining hate speech.

Once the result of the speech is abused, it is considered hate speech according to the definition of hate speech in traditional Islamic law, because it is, then, a crime in itself. The Muslim Brotherhood's statement and Dr. Essam's article clearly show that the Brotherhood offended the opposing groups. Although the offense itself is enough to criminalize the speech and consider it hate speech; the repeated terrorist attacks in Sinai after the release of the Brotherhood's speech show greater implications for such discourse.⁸⁹¹ A leader of the Muslim Brotherhood Dr. Mohamed Beltagy admitted that his group is responsible for the violence that takes place in the Sinai Peninsula. Beltagi said: "What is happening in Sinai will stop the moment that army will go back on the coup and Morsi returns back to exercising his duties as president of Egypt."⁸⁹²

From traditional Islamic law, the speech of the Muslim Brotherhood and its supporters are classified as hate speech; the content of their speech violates one of the constants of Islam and two of the basic human rights. According to the context, the intentions of the deliverers of the speech were clearly to incite hatred and violence. As a result, peaceful Muslims and non-Muslims were abused. Other implications of such speech were the terrorist attacks in Sinai.

5. 3. 4. Hate Speech against the Muslim Brotherhood Group

5. 3. 4. 0. Introduction

Ever since the army removed Morsi from his position as president, political divisions have appeared between the supporters and opponents of the Muslim Brotherhood. The division was soon considered a conflict between right and wrong.⁸⁹³ Away from the political situation of the Muslim Brotherhood, this group has many supporters in Egypt as the elections of 2011 showed. The Brotherhood did not succeed in ruling Egypt and were not able to comprehend the political

⁸⁹¹ Ahmad Wanees, Speech of the Terrorist Group, Albawaba News, Published on 12-03-2016 via: <http://www.albawabhnews.com/2251384> (Last access December 30, 2016)

⁸⁹² Al-arbia. Net, North Sinai Witnessed During the Last Days Acts of Violence Targeting Police and Army, Published on 7-8-2013, via: <http://www.alarabiya.net/ar/arab-and-world/egypt/2013/07/08/%D8%A7%D9%84%D8%A8%D9%84%D8%AA%D8%A7%D8%AC%D9%8A-%D9%8A%D9%87%D8%AF%D8%AF-%D8%A8%D8%A7%D8%B3%D8%AA%D9%85%D8%B1%D8%A7%D8%B1-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%A8%D8%B3%D9%8A%D9%86%D8%A7%D8%A1-%D9%81%D9%8A-%D8%AD%D8%A7%D9%84-%D8%B9%D8%AF%D9%85-%D8%B9%D9%88%D8%AF%D8%A9-%D9%85%D8%B1%D8%B3%D9%8A.html> (Last access March 6, 2017)

⁸⁹³ Aleqtisadiah ,Hatred Invades the Hearts of Egyptians, via: http://www.aleqt.com/2013/08/08/article_777018.html (Last access 16 August 2016)

power. The question is, "Is the hate speech against them accepted under Islamic Law?" After the fall of the Brotherhood's authority, the leaders and supporters of the group gathered in an area called Rabaa Aladawiya and began their protest against the removal of the president.⁸⁹⁴ Some Egyptian media started then inciting hate against those people. The following are some examples.

5. 3. 4. 1. Samples of Speech

- a. Mohammed Rajab Salama said describing the Muslim Brotherhood, "The Muslim Brotherhood is not different from the Jews, rebels and Magi who joined Islam in the third century of Hijra to destroy and ruin it from inside."⁸⁹⁵
- b. Amro Adeeb, a reporter on Orbit channel, described the Brothers in Rabaa as 'sheep,' and said, "They are paid money and are offered food to stay and protest in Rabea Adawiya." ⁸⁹⁶
- c. Nabil Zaki, in his article "The Brotherhood... Outside History," said, "Everyone is sure now that the Brotherhood is no less dangerous than the Nazis; they rule with strength of arms because they claim they represent Heaven... They speak about devotion, righteousness, and piety while their stomachs are stuffed and while they enjoy all types of pleasures."⁸⁹⁷
- d. Yousef, one of the TV presenters on ONTV, described the Brothers as "a gang of murderers that must be killed." ⁸⁹⁸

⁸⁹⁴ Al Jazeera, In Pictures: Memories of the Rabaa Massacre, via: <http://www.aljazeera.com/indepth/inpictures/2014/08/egypt-rabaa-cairo-massacre-201481213185826678.html> (Last access 16 August 2016)

⁸⁹⁵ Mohammed Rajab Salameh, A New Study Reveals the Real Affiliation of "Muslims Brotherhood" and Its Founder to Freemasonry, Published on 9-18-2013 through Elmogaz.com via: <http://www.elmogaz.com/node/107121> (Last access 16 August 2016)

⁸⁹⁶ Yolandi Neil, The Challenges of Media Landscape in Egypt After June 30, BBC Arabic, Published on 08-10-2013, via: http://www.bbc.com/arabic/middleeast/2013/08/130810_egypt_media (Last access December 31, 2016)

⁸⁹⁷ Nabil Zaki, The Brotherhood...Outside History, Masress News, Published on 01-19-2014, via: <http://www.masress.com/alahaly/36026> (Last access December 30, 2016)

⁸⁹⁸ Alshrooq Online, Insults and Calls for Killing the Muslim Brotherhood and Torturing them, Published on 07-07-2013, via: <http://www.echoroukonline.com/ara/mobile/articles/171802.html> (Last access December 30, 2016)

- e. Wael Al Abrashi, an Egyptian journalist, described the Brothers in the protest of Rabaa as "hostages involved in a crime; no one can leave the protest. Anyone who helped kill Egyptians cannot be spoken with."⁸⁹⁹
- f. Ahmed Shubeir denounced the Muslim Brotherhood and denied them the identity of 'Islam': "You are murderers. You have nothing to do with Islam. Do not speak in its name. You are denouncers of belief."⁹⁰⁰
- g. Some Egyptian journalists issued speech against the Syrian refugees in Egypt because some of them joined the Brotherhood in the protest of Rabaa. Some of them are:
 1. Tawfiq Okasha, who said,

"I speak to all Syrians 'a warning message for 48 hours,' The Egyptian people have all of your addresses, especially in Damietta, the new neighborhood, Sadat city and 6th of October street. If you stand by the Muslim Brotherhood, the Egyptian people will destroy your homes. The people are not going to endure any spies."⁹⁰¹
 2. Another journalist, Mohammed Al Gheithi, said that the female Syrian refugees commit adultery. "They offer themselves to the men of the Brotherhood who are protesting without a payment to achieve 'marriage jihad.' The Brothers also offered some apartments for sex." ⁹⁰²

5. 3. 4. 2. Analysis of Hate Speech against the Muslim Brotherhood Group from the Viewpoint of Traditional Islamic Law

Before analyzing the Speech of the Egyptian media against the Muslim Brotherhood, it is convenient to give a brief summary of the forms of their speech and the types of those making such speech. First, Nabil Zaki's speech, "The Brotherhood... Outside History"; and Mohammed Rajab's were in the form of news articles, a conventional means for expression. Second, all mentioned speech were in the form of unofficial releases through TV channels, a conventional

⁸⁹⁹ Mahmoud al-Badawi, "The Muslim Brotherhood" in Ramadan .. from "Rabaa" into "the Death Penalty", via: <http://www.elwatannews.com/news/details/756905> (Last access 16 August 2016)

⁹⁰⁰ Ibid

⁹⁰¹ Egyptian Media Tawfiq Okasha Threatens to Burn and k\Kill Syrian Refugees in Egypt, through YouTube, via: <https://www.youtube.com/watch?v=LHpeUmn6Hw> (Last access 16 August 2016)

⁹⁰² Mohammed Ghaith: Syrian Women Go to Rabaa in Order to " Jihad's Marry" with the Muslim Brotherhood, through YouTube, via: <https://www.youtube.com/watch?v=v3K5zLVMH08> (Last access 16 August 2016)

means of discourse. As previously mentioned, according to traditional Islamic Law, hate speech is a crime in itself; therefore, it is not required to examine the state of the person partaking in the speech or indeed the setting, whether it is formal and effective or not. Also, there is no need to investigate its impact nor the place and means of its release. Likewise, the definition is not taken into consideration whether the issuer of discourse is an individual or a group. If a speech is issued by a person or an association and it contains the fundamental elements, which are: content, intent according to the context, offense as an inevitable result, or much worse, it is classified as a hate speech. To know whether these the Muslim Brotherhood's discourses are hate speech or not, from an Islamic law point of view, they should be analyzed according to the following basic elements for defining hate speech.

The contents of the Egyptian media against the Muslim Brotherhood depend on exaggeration and spread of rumors. They also use some insulting phrases. Their speech tends to generalize. Some famous Egyptian journalists did not abide by scientific and professional methods. Instead, they used the media to fuel the dispute against the Brotherhood and they called for the expulsion of the Syrian refugees. In short, the content of the Egyptian media speech mentioned above clearly violates one of the five constants of Islam, which is Islamic values through violating the principle of respecting others and honesty. It also violates the right for life, one of the basic human rights.

The speech of the Egyptian media mentioned above violates the principle of respecting others. The speech used sarcasm and insults when referring to the Brotherhood; they also depicted them in a hideous manner. For example, saying they are like "The Jews, rebels and Magi who joined Islam in the third century of Hijra to destroy and ruin it from inside " is a violation of others' rights and a distortion of the history of that group. It also creates an evil image about them. Furthermore, saying that the Brotherhood "are paid money," describing the female Syrian refugees as "prostitutes" and describing all Syrian refugees as "spies" violates the principles of honesty and respecting others. Such information was not proven correct by its claimants; it was merely because of the political dispute that such rumors were spread. Describing the Muslim Brotherhood to be "murderers" and "denouncers" by the Egyptian media is an insult to the Brotherhood. These are mere rumors that lack hard evidence. Egyptian media should have left this to the Egyptian Court. Even if the Brotherhood was a suspect, all suspects are innocent until proven otherwise. The

Egyptian media continued its violation of the principle of respecting others until it depicted the Brotherhood, as Nabil Zaki said, "Everyone is sure now that the Brotherhood is no less dangerous than the Nazis." It also violated the principles of honesty and respecting others by distorting the reputation of the Syrian refugees because some of them took the Brotherhood's side in the protests. For example, Tawfiq Okasha said, "The people are not going to endure any spies."

In addition, these speech violated one of the basic human rights, which is the right for life. After depicting a hideous image about the Muslim Brotherhood, it is easy to say that the journalists violated the right for life of the members of the Muslim Brotherhood and its supporters. This is clearly shown through their call for violence against them. Whoever opposes the media is classified as a member of the Brotherhood and is thus unworthy of enjoying the right for life. This is clear through their speech such as: "a gang of murderers that must be killed", "Hostages involved in a crime" and what Tawfiq Okasha said to the Syrian refugees, "The Egyptian people will destroy your houses."

Due to such content, it is difficult to coexist in peace with the Muslim Brotherhood and Syrian refugees; this is of course against the teachings of Islam, which guarantees the right for peaceful coexistence despite any religious differences. If Islam approves that, then what about political differences? To summarize, the content of such speech clearly violates the right for life, a basic human right ensured under Islamic Law. In short, the contents of these speech clearly violated the principles of honesty and respect for others; two of the highest values in Islam. They also violated the right for protecting life, one of the basic human rights ensured by Islamic Law. Therefore, the first actual element of hate speech, the content, is proven to exist.

In order to identify the intentions of the speech issued by the Egyptian media against the Muslim Brotherhood, we need to analyze the contexts of such speech. First, incitement clearly is found in most of the speech that were analyzed. They described the Brothers as "a gang of murderers that must be killed." and as "hostages involved in a crime; no one can leave the protest. Anyone who helped kill Egyptians cannot be spoken with." Incitement was also shown through describing the Brotherhood with words and phrases that would make recipients feel unforgiving towards such an enemy. In fact, it made them want to fight the Brothers. For example: the Brotherhood "destroy," "corrupt," "are paid," "are not less dangerous than the Nazis," "are a gang of murderers," "are denouncing others," and "have nothing to do with Islam." They also described

the female supporters of the Brotherhood as "they give themselves up for illegal sex." The Egyptian media used some historical incidents to legalize incitement against the Brothers, depicting them as an enemy following the path of such historical events.

The second context is calling for violence. This is clear in Tawfiq Okasha's statement against the Syrian refugees, "I speak to all Syrians 'a warning message for 48 hours,' The Egyptian people have all of your addresses, especially in Damietta, the new neighborhood, Sadat city and 6th of October street. If you stand by the Muslim Brotherhood, the Egyptian people will destroy your homes." Such speech calls for violence. Assuming that al Syrian refugees were helping the Muslim Brotherhood, it is the job of the Egyptian security authorities to deal with them, not the people. Such speech clearly calls for violence. Calling for hatred is the third context of hate speech. Generally, all speech delivered by Egyptian journalists were intended to incite hatred. They classified the Muslim Brotherhood and its supporters as "enemies." Therefore, they justified to harm and kill them. This is clear when they described religious people as having entered Islam to destroy it. Mohammed Rajab, describing the Muslim Brotherhood, said, "The Muslim Brotherhood is not different from the Jews, rebels and Magi who joined Islam in the third century of Hijra to destroy and ruin it from inside." Another also described them as "Nazis." All the speech' implications resulted in creating a hideous image about the Muslim Brotherhood and its supporters, one that cannot be fixed nor dealt with. They have made the Brotherhood "the greatest enemy." Fourth, as we mentioned about the speech issued by the Muslim Brotherhood, how their speech were full of insults, similarly the Egyptian media had a similar level of cursing. They described the Brothers as "sheep," and said that their leaders "speak about devotion, righteousness, and piety while their stomachs are stuffed and while they enjoy all types of pleasures." They also described Syrian refugees as "spies," and female Syrian refugees as "prostitutes." These are the most significant speech for Egyptian media against the Muslim Brotherhood. This speech proved the second element of hate speech, which is intention according to contexts.

Once a speech results in abuse, it is considered hate speech according to the definition of hate speech under Islamic Law because it is then a crime in itself. Egyptian media speech, after analysis, turned to be full of offensive language towards the Muslim Brotherhood. Despite the fact that mere abuse is enough to criminalize discourse and to consider it as hate speech, there were

greater implications such as the breakup of the Rabaa Al-adawiya protest using military force, the mistreatment of Syrian refugees, and the bad perception of female Syrian refugees.

After analyzing the Egyptian media speech, traditional Islamic Law's viewpoint is that such discourses are classified as hate Speech because their content violates one of the constants of Islam, and one of human's basic rights. In addition, they are classified as hate speech because of the intention of the speech givers who, according to the context of the speech, called for incitement, violence, hatred, offense, and cursing against the Muslim Brotherhood. As a result, the members of the Brotherhood and its supporters abused the Muslim Brotherhood. In addition, the speech led to victims and tragedies that are considered worse than abuse.

5. 3. 5. Conclusion

Arab countries, where the revolutions happened, suffer from hate speech and their bloody impacts. Egypt was a real-life example of how provocative speech influenced the country during the Arab Spring. Arab revolutions came for freedom and democracy but soon turned into political and religious disputes, and discrimination based on gender, ideology, and others. Not all revolutions were successful and granted freedom and democracy to the people. In fact, they helped give more room and protection for hate speech under the umbrella of freedom of expression. Media in the countries where revolutions happened was able to bring down rulers. They turned disputes into an internal fights between different religions, creeds, and ideological groups living in the same country. Therefore, we see that such revolutions failed to achieve the freedom of democracy, or to offer the people a dignified life.

Arabic media, in Egypt in particular, played a huge role in spreading hate speech and hostility among the people of the Arab Spring and Muslim community through spreading hatred in the regional countries. The content of the media was biased and lacked professionalism. It was politically-oriented; the media that were centered on religious groups showed liberals to be 'secular' and 'against Islam.' At the same time, other media showed Islamists as “taking over the revolution” and “disparaging others” after being in power. After Islamists left their authority, the media displayed them as supporters to violence and terrorism without concentrating efforts on the two parties' shared concerns and characteristics. The media did not understand that in each team there were diverse and various visions. As a result, the media became a supporter of one opinion and cause, and offended and attacked the other in case of showing different opinions. The

newspapers supported certain parties and attacked others. For example, after 30th of June some newspapers such as Al Watan were entirely against the Muslim Brotherhood, while the Al Horiyya and Al Adala (Freedom and Justice) newspaper became entirely against the army and civil movement.⁹⁰³

Conventional and modern media, such as social media websites, did not cause the outbreak of the Arab Spring; they simply helped spread the news and events. However, after the revolutions expanded and spread, the new media started playing the role of provocation and called for hatred and violence. They also helped document and circulate the crimes and occurring events.⁹⁰⁴ As forms of expression varied—whether using tweets, articles, videos, caricatures, or Photoshop designs—hate speech clearly developed. The media being in the reach became a great concern for the Arab and Muslim nations.⁹⁰⁵ Hate groups around the world utilized the potentials of the Internet and thousands of websites that serve hatred.⁹⁰⁶

According to traditional Islamic Law, all discourses that call for provocation, hate, and enmity based on religion, nationality, creed, political party, or ideology are considered illegal hate speech. Al Azhar, as an important Islamic symbol, realized the danger of such bad media discourse that calls for disorder and murder. On 31st of January, 2013, the Egyptian political authorities signed a covenant under the auspice of Al Azhar to reject violence; it was an attempt to stop hate speech that was spreading in Egypt. Article (6) states:

“Resorting to violence, inciting it, being silent on it, distorting each other, rumor-mongering, and all forms of character assassination of individuals and entities that are key players in public work are all moral crimes that everyone must distance themselves from.”⁹⁰⁷

⁹⁰³ Khaled Hanafy, *The Secluded Coves: Patterns and Motives Political Hatred in the Region After the Revolutions*, No. 3 from *Versions of (the Situation of Region)*, Regional Center for Strategic Studies – Cairo.

⁹⁰⁴ Walid Hosni Zahra, *I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media*, p. 151-152, *Defending Freedom of Journalists Center*, First Edition 2014

⁹⁰⁵ Ibid

⁹⁰⁶ Ibid, p. 152, Quoting: Abdulaziz Othman, *Freedom of Expression and Control of Online Hate Speech*

⁹⁰⁷ Al-Azhar Document on Renouncing Violence on 1-31-2013, via:

<http://www.skynewsarabia.com/web/article/72647/%D9%86%D8%B5-%D9%88%D8%AB%D9%8A%D9%82%D8%A9-%D8%A7%D9%84%D8%A7%D9%94%D8%B2%D9%87%D8%B1-%D9%84%D9%86%D8%A8%D8%B0-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D9%85%D8%B5%D8%B1> (Last access July 11, 2016), Article 6

In addition, the Egyptian Journalist Code of Honor Covenant states that journalists must "refrain from disseminating racist messages or those that express contempt for or advocate hatred of religions, denigrate the beliefs of others or promote discrimination or contempt for a particular community."⁹⁰⁸

Based on the Islamic viewpoint regarding speech in Egypt after the revolution, it is noticed that the political conflict there resulted in hatred and provocation based on ideology, religion, and politics. Such discourse has helped spread hatred as a means of expressing one's opinion, vision, and attitude. According to Islamic Law, such discourses are illegal, unacceptable, and opposing to the principles of Islamic Sharia.

⁹⁰⁸ National Coalition for Media Freedoms, The Egyptian Journalists Honor Charter 1998, the Supreme Press Council Approved to Issue It in 03/26/1998, via: <http://ncmf.info/?p=151> (Last access 3 August 2016)

Chapter 6: *Freedom of Criticism under Traditional Islamic Perspective*

“Criticism, like rain, should be gentle enough to nourish a man’s growth without destroying his roots.” Frank A. Clark

6. 0. Introduction

Freedom of criticism is undoubtedly one of the most heavily traded among those interested in the right to freedom of expression. From a traditional Islamic perspective, freedom of expression, as a profound concept, includes a set of forms of the practice of freedom of expression, the most important of which is the freedom of criticism. To discuss the issues relating to freedom of criticism, this chapter is divided into three sections. The first section addresses forms of exercising freedom of criticism in traditional concept of Islam. These forms of exercising are emitted from the principle of "the Promotion of Virtue and the Prevention of Vice". Based on freedom of criticism as a human right that can be subjected to limitations and restrictions as is the case with most human rights, this section discusses when criticism is prohibited by traditional Islamic law. In addition, it presents pros and cons regarding the exercising of freedom of criticism among legal Islamic schools. Moreover, it reviews the role of Islamic research centers such as the Jurisprudential Council and Al-Azhar in preventing the spread of doctrinal fanaticism among the schools of Islamic law. The second section discusses the issue of freedom to criticize religions from traditional Islamic perspective. More specifically, this section discusses in depth, the argument saying: the description of Islam as religion of violence and war, based on the doctrine of jihad and the doctrine of loyalty to Islam and disavowal from other must be classified as freedom of criticism and not Islamophobia.

After the attacks of September, the eleventh, some anti-Islamic organizations described Islam as a religion of hatred and violence. This came as a reaction to the terrorist attacks carried out by terrorist groups calling themselves Islamic. Therefore, the last section provides a definition of the phenomenon of Islamophobia, the concepts of Islamophobia adopted by extremist groups against Islam and Muslims, and the historical background of Islamophobia. In addition, this section reviews the role of the organization of Islamic Cooperation against hate speech used by Islamophobic supporters. Then, it moves on to discuss the freedom to criticize religions, including Islamophobia, from International perspective. Finally, to reach the real position of traditional Islamic law toward hate speech from by Islamophobic supporters, this chapter analyzes examples

of their speech based on the definition of hate speech from traditional Islamic perspective, which has been deduced in chapter 3.

6. 1. The Exercising of Freedom of Criticism from a Traditional Islamic Perspective

Criticism is considered a form of the practice of freedom of expression in Islamic perspective, because constructive criticism is a basic factor of development in all aspects of life. According to traditional Islamic law, criticism must be positive and aimed to achieve cooperation in righteousness, which is a basic rule in all dealing with others.⁹⁰⁹ In this sense, the Quran states: "Help ye one another in righteousness and piety, but help ye not one another in sin and rancour."⁹¹⁰ It is noteworthy that traditional Islamic law clarified how to exercise one's freedom of criticism. The Quran encourages in many of the texts to exercise criticism under the principle of "the Promotion of Virtue and the Prevention of Vice", as known in Arabic (Nasihah and Hisbah).⁹¹¹

6. 1. 0. The Concept of 'Nasihah' and 'Hisbah'

The word 'Nasihah' literally means "advice" or "sincerity."⁹¹² Technically, it means "Advocating all that is good and forbidding the all that is evil"⁹¹³. Although traditional Islamic law protects, through the concept of Nasihah, the right of a person to propagate good things and to eradicate evil, it protects this right on an official level through the term Hisbah. The word Hisbah "connotes the state institution to promote the proper conducts and to avoid all types of misdeeds or offences."⁹¹⁴ Nasihah and Hisbah refer to the manner in which criticism must be conducted, which is directing people to enjoin good and warn them from evil ideas and acts.⁹¹⁵ According to the Quran, God said: "And let there be among you a body of men who should invite to goodness, and enjoin equity and forbid evil. And it is they who shall prosper." ⁹¹⁶ With the words "Let there

⁹⁰⁹ Saeed, Riaz, The Quranic concept of freedom of expression: A descriptive study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013, p. 71

⁹¹⁰ The Quran, verse (05:2)

⁹¹¹ Mohammed Al- Kheraan, Freedom of expression between the Islamic concept and the contemporary concepts, Vol 17, No. 48, The Journal of Sharia and Islamic Studies (2002).

⁹¹² Lambert, Mariam and Susan, Naseeha, p. 1-3, Betascript Publishing, 2011

⁹¹³ Ali Jerjani, Definitions (Atta'areefat), p. 241, Dar al-kotob al-ilmiyah for publications, First Edition 1983, Beirut-Lebanon

⁹¹⁴ Fauzan Saleh, The Institution of Hisbah: Its Roles in Roles in Nurturing Fair and Just Economic System in Islam, Paper to be presented at the National Conference On Islamic Economics 2009 on 10th-11th February 2009 at University of Malaya, p. 5

⁹¹⁵ Ahmad Bello Dogarawa, Role of Hisbah Institution in Ensuring Ethical Business Practices: Reflection for Shari'ah Implementing States in Nigeria, Paper Presented at the 2011 Ben-Africa Conference Zanzibar, Tanzania 2011, p. 3

⁹¹⁶ The Quran, verse (3:104)

be” in this verse, it is clear that Islamic law considers criticism a religious obligation upon the Muslims.

Another Quranic verse states: "The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil"⁹¹⁷ The verse emphasizes that men and women are equal in exercising the right of criticism. In the Islamic perspective, giving sincere and friendly advice or the advocating good, assumes the right to freedom of criticism. The right of criticism through concept of Nasihah or Hisbah, also, aims to promote high moral standards, to combat immoral behavior, to support positive activities and to prevent corrupt ones. Thus, in order to achieve these goals of criticism, Islamic law requires that Nasihah or Hisbah must be provided wisely with acceptable context. According to the Quran, "Invite (all) to the Way of thy Lord with wisdom and beautiful preaching." It is noticeable that Islamic law differentiates between Nasihah or Hisbah, which means to give sincere advice in courteous manner, and reprimand that which comes with behavior of ridicule and belittlement.

6. 1. 1. The Hisbah Institution in Saudi Arabia

As previously mentioned, Nasihah is a type of criticism that any individual can exercise, while Hisbah is another type of criticism that should be in the form of an official institution established by the state. Saudi Arabia is the only Islamic state which has retained the Hisbah institution, formally known as "The General Presidency of the Promotion of Virtue and the Prevention of Vice", surviving until this day.⁹¹⁸ The former law of Hisbah was contrary to the meaning of Hisbah in Islam, which makes a lot of researchers and those interested classify the functions of Hisbah as "religious police" who have powers of arrest and the implementation of sanctions.⁹¹⁹ Article 9 of Law of the Commission for Promotion of Virtue and Prevention of Vice states that:

"The most important obligations of the Committee for the Promotion of Virtue and Prevention of Vice includes guiding people, admonishing them to follow religious obligations as defined in the Islamic Sharia, and instructing people upon its rules; the forbiddance of vice and violations of the Sharia, or the following of customs and traditions

⁹¹⁷ The Quran, verse (9:71)

⁹¹⁸ Fauzan Saleh, The Institution of Hisbah: Its Roles in Roles in Nurturing Fair and Just Economic System in Islam, Paper to be presented at the National Conference On Islamic Economics 2009 on 10th-11th February 2009 at University of Malaya, p. 5

⁹¹⁹ Gregory G. Mack, The Modern Muhtasib: Religious Policing in the Kingdom of Saudi Arabia, p. 159-160, Montréal, Québec, Canada, (2013).

of misdeeds or reprehensible innovations, in a way that entirely adheres to procedure. In so doing, the objective of effective punishment, as detailed in this law, is pacification."⁹²⁰

With the increase of violations by members of this commission through the violation of the right to privacy, and criticism inappropriately, Saudi society has begun to demand the government to stop these violations.⁹²¹ For the sake of the efforts of the Saudi government to reform this Committee in line with the concept of Hisbah, the Saudi government issued a new law of the General Presidency for the Committee for the Promotion of Virtue and Prevention of Vice that completely abolished the former law. The new law drafted a proper way in which Hisbah should be exercised. Article 6 states that: "The Committee for the Promotion of Virtue and Prevention of Vice is expected to uphold its duties with kindness and gentleness as decreed by the examples of Prophet Mohammed (peace be upon him). The committee is expected to work alongside official authorities from the police to anti-narcotic taskforces."⁹²² This law restricted the functions of the Committee members only in directing criticism "with kindness and gentleness". They will no longer be allowed "to pursue, question, request identification and/or arrest and suspect as such protocol will be left to official authorities."⁹²³ Thus, the Islamic approach to freedom of criticism must be applied completely, because it is more applicable and appropriate in all Islamic societies.

6. 1. 2. Conditions of Freedom of Criticism

In order to be a legitimate criticism, Islamic law does not only require the truth to be spoken⁹²⁴, but it, also, requires to ascertain the truth before making a criticism⁹²⁵ and to avoid

⁹²⁰ Royal Decree No: M / 37 Date: 09/06/1980 on the Law of Commission for the Promotion of Virtue and Prevention of Vice, Article 9, via: <https://boe.gov.sa/ViewSystemDetails.aspx?lang=en&VersionID=97&SystemID=2383> (Last access February 14, 2017)

⁹²¹ Americans for Democracy and Human Rights in Bahrain, Commission for the Promotion of Virtue and the Prevention of Vice, via: http://www.adhrb.org/wp-content/uploads/2015/04/2015.03.31_Ch.-1-CPVPV.pdf (Last access February 14, 2017)

⁹²² Cabinet Resolution No. (289) dated 01/01/2016 on the Law of the General Presidency for the Committee for the Promotion of Virtue and Prevention of Vice, Article (6), via: <https://boe.gov.sa/ViewSystemDetails.aspx?lang=ar&VersionID=2362&SystemID=2383> (Last access February 14, 2017)

⁹²³ Ibid, Article 7 para 2.

⁹²⁴ Abdulrahman Al-Suyuti, Durr scattered, Vol. 6, p. 667-668, Beirut: Dar al-Fikr Publication. Also, The Quran, verse (2:83), God said: "speak fair to the people."

⁹²⁵ Firas Abdul Jalil, Freedom of expression in the Holy Quran, p. 174, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, the Quranic verse (49:6) states: "O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly and afterwards become full of repentance for what ye have done"

concealing the truth⁹²⁶. Criticism cannot be established based on ignorance, rather it must be established on true knowledge.⁹²⁷ In addition, Islamic law requires refrain from inappropriate speech⁹²⁸, to refrain from ridicule⁹²⁹, defamation and sarcasm⁹³⁰, to avoid publishing evil⁹³¹ and to speak with adopting good behavior in debates and dialogue among followers of different religions⁹³². These conditions on freedom of criticism under traditional Islamic law are aimed at achieving peaceful coexistence based on the principles of dialogue and consultation, and not on the monopoly of opinion.⁹³³ As a result, freedom of criticism may be curtailed when the above principles are violated. In addition, freedom of expression may also be limited where it creates social disorder. The foregoing discussion also clarifies that Islamic law protects the right of criticism in a decent way. Naseehah and Hisbah are terms that are classified under the Islamic

⁹²⁶ Mohammed Zoheily, Religious freedom in Islamic Sharia, Vol. 27, p. 388, Damascus journal of economic and legal sciences, The first issue 2011. Also, the Quranic verse (29:46) states: "and say a word directed to the Right."

⁹²⁷ The Quran, verse (17:36), God said: "And pursue not that of which thou hast no knowledge; for every act of hearing, or of seeing or of (feeling in) the heart will be enquired into (on the Day of Reckoning)." See Jallow AY (2015) Freedom of Expression from the Islamic Perspective. J Mass Communication Journalism 5:278. doi:10.4172/2165-7912.1000278

⁹²⁸ Saeed, Riaz, The Quranic concept of freedom of expression: A descriptive study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013, p. 71. Also, the Quranic verse (22:30) states: "and avoid false statement."

⁹²⁹ Maher Holi, Freedom of expression and respect of religions and sanctities, p. 5, Islamic University in Gaza, Palestine 2008. Also, the Quranic verse (49:11) states: "O ye who believe! Let not some men among you laugh at others: It may be that the (latter) are better than the (former): Nor let some women laugh at others: It may be that the (latter are better than the (former))."

⁹³⁰ Firas Abdul Jalil, Freedom of expression in the Holy Quran, p. 166-167, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, the Quranic verse (49:11) states: "Nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames"

⁹³¹ Jallow AY (2015) Freedom of Expression from the Islamic Perspective. J Mass Communication Journalism 5:278. doi:10.4172/2165-7912.1000278. See, also, Abdullah Alturki, Human Rights in Islam, p. 41, The Ministry of Islamic Endowments& Da'awa & Guidance Affairs, Riyadh, Saudi Arabia. In addition, the Quranic verse (4:148) states: "God loveth not that evil should be noised abroad in public speech, except where injustice hath been done; for God is He who heareth and knoweth all things."

⁹³² Mohammed Zoheily, Religious freedom in Islamic Sharia, Vol. 27, p. 388, Damascus journal of economic and legal sciences, The first issue 2011. Also, the Quranic verse (29:46) states: And dispute ye not with the People of the Book, except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury)."

⁹³³ Saeed, Riaz, The Quranic concept of freedom of expression: A descriptive study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013, p. 78-79. Also, the Quranic verse (3:159) states: "And consult them in affairs (of moment)"

concept of criticism must be subject to the provisions of traditional Islamic law relating to freedom of expression as mentioned previously.⁹³⁴

In addition, criticism in a scientific manner based on evidence and facts is not considered hate speech as long as it does not come in one of the contexts of hate speech. For example, if a politician says that "a political group is not honest in its political promises based on the following facts:

A-It did not take strict security measures to keep the peace in a given area, and

B- It promised to provide 1,000 jobs, but instead provided only 100 jobs.

Therefore, I believe that this group did not satisfy the people's demands, and I advocate not voting for them."

It is noticeably clear that this hypothetical example came in the context of criticism within the framework of the objective discussion of the party's eligibility to be elected based on historical facts. The style is scientific without incitement, or calling for acts of violence, or harming others and the like. Criticism in this context is considered advice that is legitimate under Islamic law and in accordance with the Sunnah, "Religion is sincerity."⁹³⁵

6. 1. 3. Freedom of Criticism among Legal Islamic Schools of thought: Pros and Cons

Academic, legal, or scientific differences based on scientific reasoning in terms of jurisprudence or in the presumptive texts, and not peremptory texts, in Islamic law are considered as a form of freedom of criticism, and not considered hate speech as long as they do not come in one of the contexts of hate speech. This section includes the concept of Ijtihad that is defined and explained in the first chapter of this research. The emergence of the Islamic legal schools and their continuation to this day is clear evidence that they do not fall within the context of hate speech unless the contents of hate speech are expressed within one of the contexts of hate speech. The multiplicity of legal Islamic schools, either Sunni or Shia, was the main reason for the prosperity and development of Islamic law. In contrast, doctrinal fanaticism

⁹³⁴ Mohammed Albishir, Freedom of opinion in Islam and legal systems, p. 132, Research presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First edition 2009

⁹³⁵ The Prophet Muhammad, peace be upon him, said, "The religion (Al-Din) is a name of sincerity and well wishing." Upon this Companions said: "For whom?" He replied: "For Allah, His Book, His Messenger and for the leaders and the general Muslims." See Imam Muslim, Sahih Muslim, Hadith Number. 6252, Book. 32, ((Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

emerged in the late 8th century, which was caused by the cessation of diligence and the reliance on imitating the imams of doctrines without searching or making sure of the validity of their opinions. This fanaticism was a reason for the spread of hostile discourse among the followers of the doctrine. It is worth noting that the Imams of the doctrines called for avoiding this fanaticism, and they openly declared that their opinions could be wrong. Therefore, if a scholar or a researcher finds that the Imams' opinions contradict the sources of Islamic law, he should follow what is correct and leave everything else. Abu Hanifa, the founder of Hanafi School, said: "This is my opinion but if someone offers a better opinion, we will accept that."⁹³⁶ Malik, the founder of Maliki school, said: "I'm a human being who makes mistakes and can be wrong. You should return to the Qur'an and Sunnah."⁹³⁷ Ash-Shafii, the founder of Shafii school, said: "If you see that my words contradict the hadith, then apply the hadith and disregard my words."⁹³⁸ Ahmed, the founder of Hanbali school, said: "Do not imitate me. Neither imitate Malik, Ash-Shafii or Athori and learn like we learnt"⁹³⁹ According to the sayings of the founders of those schools, it is clear that the aim of the multiplicity of schools was for promoting freedom of criticism, and not for supporting doctrinal fanaticism. But by reviewing some of the sayings of the followers of the four doctrines, we will see that their discourse showed hostility against the other doctrines, considering that anyone who disagrees with them is wrong even if his opinion is based on an evidence.

Here are some examples of the discourses produced by the followers of the schools. These discourses aim at establishing the principle of hostility and exclusion of other schools; thus hostile actions can take place among the recipients of these discourses: Al-Qadi Iyad said: "Know that preferring the doctrine of Malik to other doctrines and magnifying it can't be denied except by an aggressor."⁹⁴⁰ Also, Abu Al-Maali Al-Jwaini said: "Reasonable people, Muslims and commoners must adopt the doctrine of Ash-Shafii and make it irreplaceable."⁹⁴¹ In addition, Abu Al-Farag al-Hanbali preferred the doctrine of

⁹³⁶ Ibn Taymiyyah, *Majmu 'Fatawa*, Vol. 20, p. 211, King Fahd Complex for the Printing of the Holy Quran, the city of the Prophet, Saudi Arabia (1995)

⁹³⁷ Ibid.

⁹³⁸ Ibid.

⁹³⁹ Ibn Qayyim al-Jawziyyah, *I'laam al-Muwaqqi'en 'an Rabb il 'Aalameen* (Information for Those who Write on Behalf of the Lord of the Worlds), Vol. 2, p. 139, Dar al-kotob al-ilmiyah - Beirut, First Edition 1991.

⁹⁴⁰ Al- Sabti Iyad Ibn Musa, *Arranging perceptions and rounding paths to know the figures of Maliki School*, Vol. 1, p. 68, the Ministry of Awqaf and Islamic Affairs, Morocco, Second Edition, 1984.

⁹⁴¹ Juwayni, *Imam al-Haramayn*, (*Mughith al-Khalq fi Tarjih al-Qawl al-Haqq*), p. 16, Egypt - Cairo: The Egyptian library (1934)

Imam Ahmad to other doctrines and saw that he was the most knowledgeable man.⁹⁴² Moreover, some of the scholars that adopt the Hanfi school say that the prayer of those who adopt Hanfi school is not valid if they pray behind an Imam who adopts the Ash-Shafii school.⁹⁴³ These discourses that called for hatred contributed in the occurrence of hostile actions among the recipients of the discourses; here are some examples.

When one of the followers of the Hanafi School saw a man who violated a rule of the prayer rules according to his doctrine, he hit him on his chest.⁹⁴⁴ Another example is that someone broke a finger of another man who followed another school than his.⁹⁴⁵ Another example shows the impact of such a hostile discourse: There was a time before the Saudi era when the sacred mosque witnessed the extremism and the impact of this discourse of hatred as the followers of each Islamic school used to pray on their own separately away from anyone who adopted another school out of hatred and hostility.⁹⁴⁶ As well as wars that took place between the followers of Hanafi School and the followers of Shafii School in Al-Medina.⁹⁴⁷ This discourse continued to take place until the role of Islamic research centers and jurisprudential institutions emerged.

6. 1. 4. The Role of Islamic Research Centers to Limit the Spread of Doctrinal Fanaticism Among Islamic Legal Schools

The Islamic Fiqh Council sought to reject doctrinal fanaticism and the assurance of that the jurisprudential dissimilarity should be considered a wealth of knowledge without degrading the doctrine of someone else. A decision of the jurisprudence Council in its 10th session held in 1987 concerning the

⁹⁴² Al-thahabi, *The balance of the Equinox* (Mizan Al-I'tidal), p. 51-52, correction and review by Mohammad Badr al-Din Sadani, Egypt - Cairo: Al- saadah presses, First edition (1907)

⁹⁴³ Ahmed Al-Ansari, *The effects of Jurists' differences in Sharia*, p. 388, Saudi Arabia - Riyadh: Rushd Library First Edition (1996)

⁹⁴⁴ Asim Ahmed Agila, *Intellectual Freedom*, p 89, Lebanon – Beirut, Alam Al Kotob Publication, First edition (1984)

⁹⁴⁵ Atiya Salem, *The position of the nation from imams' differences*, Dar Al-turath, p. 126, Saudi Arabia – Medina, Second edition (1991)

⁹⁴⁶ Magali Al- Magali, *The Protective Procedures from Doctrinal Fanaticism*, p. 56 Saudi Arabia- Riyadh: Naif Arab University for Security Sciences (2008)

⁹⁴⁷ Ahmed Al-Ansari, *The effects of Jurists' differences in Sharia*, p. 391, Saudi Arabia - Riyadh: Rushd Library First Edition (1996)

jurisprudent disagreements among the schools of thought, and the doctrinal fanaticism practiced by some people declared the following:

"The dissimilarity of the jurisprudential schools in some issues has scientific reasons that were required and Allah (glorified and exalted be he) has a significant purpose behind this such as granting mercy to his worshippers and widening the field of extrapolating rulings from the verses. Moreover, it is considered a legal jurisprudential wealth that gives the Islamic nation a variety of rules of their religion to rely on so as not to be limited to one legislative application that cannot be applied to any other thing. Also, if a nation finds it hard to rely on one doctrine because of the hard rules, they can find another school of thought that is easy to apply either it is about the issues of worship, treatment of others, family issues, judiciary or crimes in light of legal evidences."⁹⁴⁸

Furthermore, the Islamic Research Council at Al-Azhar had a great role in rejecting doctrinal fanaticism, as article 10 of the Egyptian law no. 103/ 1961, states:

"The research Council is the supreme body of Islamic research that carries out studies in everything related to this research and it works on redeeming the Islamic culture from impurities and remnants of the political and doctrinal extremism, showing its pure original essence, widening the scope of knowledge of it on every level and in every environment, declaring the opinion concerning what can decrease the doctrinal or social problems related to the doctrine and guiding people to the path of Allah by wisdom and good advice."⁹⁴⁹

Moreover, due to the new educational system represented in the faculties of Islamic law in Islamic universities doctrinal fanaticism has decreased noticeably.⁹⁵⁰

6. 2. Freedom to Criticize Religions from a Traditional Islamic Perspective

With regard to criticism of the disputed religious issues, then they must be discussed in a scientific manner based on evidence and facts within the framework of the objective discussion, without abuse or violation of others' rights. There is an argument saying that, the description of Islam as a religion of violence and war, based on the doctrine of jihad and the doctrine of loyalty

⁹⁴⁸ Islamic Fiqh Council- Muslim World League, Islamic Fiqh Magazine, Second Year, Second book (1989), p. 271-274, via: <http://ar.themwl.org/sites/default/files/FMAG2.pdf> (Last access 1 August 2016)

⁹⁴⁹ Egyptian Law on the re-organization of Al-Azhar and included entities Law no. 103 for 1961, Article 10, via: <http://www.egypt.gov.eg/arabic/laws/download/newlaws/%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%B1%D9%82%D9%85%20103%D9%84%D8%B3%D9%86%D8%A9%201961.pdf> (Last access 1 August 2016)

⁹⁵⁰ Abdulrahman Al- Maskari, Jurisprudential comparative studies highlight the richness and diversity of scientific knowledge of Islamic Thought, Oman Newspaper, via: <http://2015.omandaily.om/?p=250202> (Last access December 27, 2016)

to Islam and disavowal from all else, must be classified as freedom of criticism and not Islamophobia. For example, Robert Spencer, in his book "The Politically Incorrect Guide to Islam", titled some chapters of his book with words of abuse towards Islam and its followers, such as: "Muhammad: Prophet of War", "The Quran: Book of War", "Islam: Religion of War", "Islam: Religion of Intolerance"⁹⁵¹. Spencer cited certain texts of the Quran and Sunnah and examples from the life of Muhammad and his followers and analyzing them on a superficial level. One of those texts is verse (9:5) of the Quran that states: " Then, when the forbidden months are past, then fight and slay the Pagans wherever ye find them, and seize them, beleaguer them, and lie in wait for them in every stratagem (of war); but if they repent, and establish regular prayers and practice regular charity, then open the way for them: for God is Oft-forgiving, Most Merciful."⁹⁵² He considered that " this verse is saying that if the idolaters become Muslims, leave them alone. Jews and Christians were to be fought, along with idolaters: "Fight those who believe not in God nor the Last Day, nor hold that forbidden which hath been forbidden by God and His Apostle, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the Jizya with willing submission, and feel themselves subdued"⁹⁵³ ... And he said that Jihad "refers to taking up arms for Islam"⁹⁵⁴

According to this superficial understanding of the Islamic religion, he concluded several points, of which are: The Western communities are in a war with Islam; Islam teaches that Muslims must wage war to impose Islamic law on non- Muslim states; and today's Jihadi terrorists have the same motives and goals as the Muslims who fought the Crusaders.⁹⁵⁵

Whether Spencer's description of Islam as a religion of war is considered as a legitimate criticism, or that it is instead hate speech against Islam that contributes to the spread of the phenomenon of Islamophobia. Reviewing the period of time from Muhammad's first revelation (peace be upon him) till his death 22 years later (610-632) is very important to understanding Islamic law regarding the issue of criticizing Islam and its sanctities. This period of time provides the legislative basis of each case that has been discussed in light of Islamic law. Under the current

⁹⁵¹ Robert Spencer, *The Politically Incorrect Guide to Islam (And the Crusades)*, Regnery Publishing, Washington, D.C., United States 2006.

⁹⁵² The Quran, verse (9:5)

⁹⁵³ The Quran, verse (9:29)

⁹⁵⁴ Robert Spencer, *The Politically Incorrect Guide to Islam (And the Crusades)*, p. 20

⁹⁵⁵ *Ibid*, p. 221-231

system of jurisprudence, laws are first established and then cases are subjected to them; thus, a judgment is issued according to the statutes. However, under Islamic law, represented by its primary resources, the Qur'an and Sunnah, laws may be formulated after a case occurs, thus becoming a legal precedent for similar cases in terms of facts and conditions. Bearing this in mind, when a layperson not specialized in Islamic law reads the verses of Qur'an and Sunnah, he should not expect to understand Islamic law through a superficial reading of it. Instead, he must meet several standards in order to conclude the real position of Islamic law in each case. The relevant standards are:

- 1- Understanding all the texts of the Qur'an and knowing the reasons behind the issuance of these texts, whether there are exceptions to them or they have been modified, and whether they are special or general texts.⁹⁵⁶
- 2- Full cognition of Sunnah texts, and comprehensive knowledge of whether the text of Sunnah is authentic or not by comprehensive realization of all the details of the science of Hadith that regulates the process of accepting the texts of Sunnah through the rules of the authenticity of the chain of authorities (Isnad).⁹⁵⁷
- 3- Enough knowledge of the science of the Arabic language, because the language of primary sources of Islamic law is Arabic. Thus, a person should learn the rules of the Arabic language to make it easy to understand the real meaning of the Quranic or Sunnah text.⁹⁵⁸
- 4- Holistic realization of Islamic jurisprudence that discusses the characteristics of the primary sources and the methods of deriving law from jurisprudential principles.⁹⁵⁹
- 5- Excessive knowledge of the explanations of Islamic law experts and their agreements and disagreements about the meaning of a certain text.⁹⁶⁰

The verse, which Spencer cited partially, appear at first glance to be calling for hatred and hostility against others. The full text of the verse is as follow:

“But when the forbidden months are past, then fight and slay the Pagans wherever ye find them, an seize them, beleaguer them, and lie in wait for them in every stratagem (of war); but

⁹⁵⁶ Osama Al Hamoui, Principles of Islamic law, Damascus University press, 2009, p.133

⁹⁵⁷ Ibid

⁹⁵⁸ Eiaadh Alsulami, Jurisprudence Origins, p. 453, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

⁹⁵⁹ Ibid

⁹⁶⁰ Abdulmajeed Alsharfi, The Collective Ijtihad in Islamic Legislation, Ministry of Endowments and Islamic Affairs, Qatar, Doha (1998), p.69

if they repent, and establish regular prayers and practice regular charity, then open the way for them: for God is Oft-forgiving, Most Merciful. If one amongst the Pagans ask thee for asylum, grant it to him, so that he may hear the word of God; and then escort him to where he can be secure. That is because they are men without knowledge. How can there be a league, before God and His Apostle, with the Pagans, except those with whom ye made a treaty near the sacred Mosque? As long as these stand true to you, stand ye true to them: for God doth love the righteous.”⁹⁶¹

This verse will be analyzed in accordance with the standards mentioned above in order to conclude whether Spencer's description of Islam as a religion of war is considered as a legitimate criticism or hate speech against Islam.

First: "the superficial meaning of the verse": What is understood from it?

The view that Islamic discourse encourages Muslims to hate and kill non-Muslims and that Islamic law does not prevent hate speech is a limited perception of these texts. Here is an example of superficial interpretation of the Quranic texts by someone who is not qualified to conclude the relevant legal rules. Glenn Beck, in his book "It is about Islam" says:

" Thankfully, we don't have to depend on Georgetown professors of Islamic studies, or bloggers, or even presidents to understand what jihad really is—we can discover the truth ourselves in primary Islamic sources. We can—and must—read what Muslims read about their own religion. When we finally make an effort to look, we find that Islamic law is remarkably clear about jihad... The entry on jihad gets even more explicit when Reliance outlines “the scriptural basis for Jihad” in three definitive verses from Mohammed in the Quran:

1. "Fighting is prescribed for you." (Quran 2:216)
2. "Slay them wherever you find them." (Quran 4:89)
3. "Fight the idolaters utterly." (Quran 9:36)

After looking at Islamic law, jihad turns out to be an exhortation to real, physical violence. It is, as well, a command to plunder the possessions of those who do not “testify that there is no god but Allah and that Muhammad is the Messenger of Allah, and perform the prayer, and pay zakat”—or, in other words, become a Muslim.”⁹⁶²

In order to realize the real and proper meaning of the Quranic texts, it is necessary to review the circumstances in which the texts were issued and the exceptions of the texts. Also, it is important to explain all the other aspects related to the explanation of the texts.

Second: The reason why this verse was revealed:

⁹⁶¹ The Quran, verse (9:5-7).

⁹⁶² Beck, Glenn, *It Is About Islam: Exposing the Truth About Isis, Al Qaeda, Iran, and the Caliphate*, p. 111-113, First Threshold Editions/Mercury Radio Arts trade paperback edition, Threshold Editions/Mercury Radio Arts, 2015.

In the year 628, Muslims made an agreement with the tribes of Quraish and its allies. This agreement was called the reconciliation treaty of Hudaibiya. Some of its most important articles are:

- “1- Cessation of war for 10 years when people are in peace and do not fight against each other,
- 2- Muhammad shall turn away whoever comes to him from Quraish without the permission of his master, and whoever comes from Muhammad to Quraish, they shall not turn him away to Muhammad,
- 3- Muhammad shall not enter Makkah this year. In the next year, Quraish shall get away from Makkah in order to allow Muhammad and his followers to get into it and spend three days there. Muhammad and his followers shall enter Makkah with no weapons except for their personal weapons. As for the swords, they must be in their sheaths or bolsters, and
- 4- Everyone is free to adopt Muhammad's doctrine or Quraish's doctrine.”⁹⁶³

Muslims applied these articles perfectly. For instance, Muhammad (peace be upon him) turned away every person (such as Abu Jandal and Abu Basir), who came to him in order to join the Muslims, to Quraish according to the provisions of the treaty.⁹⁶⁴ Also, the Muslims stopped visiting the sacred mosque for a year and came to Makkah the next year and spent 3 days there then they went away according to the provisions of the treaty of Hudaibiya.⁹⁶⁵ On the other side, Quraish had broken the treaty by fighting with one of the Muslim's allies, which was the tribe of Khozaa. As a result, Muhammad (peace be upon him) said: "they deceived and broke the treaty, then I'm going to invade them."⁹⁶⁶ This is why this text of Qur'an has been issued as a normal reaction to breaking the treaty and non-commitment with its provisions.

Third :The analysis of the language of the Quranic text:

The reason why this text was revealed was not out of hostility and hatred but for justice according to another text of the Quran: "To those against whom war is made, permission is given (to fight), because they are wronged;- and verily, God is most powerful for their aid"⁹⁶⁷ This

⁹⁶³ Imam Muslim, Sahih Muslim, Hadith Number. 4401- 4404, Book. 19, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁹⁶⁴ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 891, Vol. 3, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

⁹⁶⁵ Abu Zakaria Al-Nawawi, The Curriculum: Explanation of Sahih Muslim, Vol. 12, p. 139, Lebanon- Beirut: Dar Ihya Turath Publication, The second edition, 1973

⁹⁶⁶ It has been narrated by Attabarani from Maymouna Hadith, See Ali Al- Raqi, Sophistication keys (Mirqat Al Mafatih), Vol. 6, p. 2624, Lebanon- Beirut: Dar Al Fikr for Publications, First Edition, 2002.

⁹⁶⁷ The Quran, verse (22:39).

Quranic text was not applied to all non-Muslims, but when continuing the verse, it is clear that there is an exception for those who did not break the treaty.⁹⁶⁸ According to the Quran, God said: "How can there be a league, before God and His Apostle, with the Pagans, except those with whom ye made a treaty near the sacred Mosque? As long as these stand true to you, stand ye true to them: for God doth love the righteous."⁹⁶⁹ Such an Islamic discourse is allowed with only those who break the vow according to other texts of the Islamic law, such as: the Quranic verse that stated: "Fight in the cause of God those who fight you, but do not transgress the limits; for God loveth not transgressors."⁹⁷⁰ Also, God, in another verse, said: "God forbids you not, with regard to those who fight you not for (your) faith nor drive you out of your homes, from dealing kindly and justly with them: for God loveth those who are just."⁹⁷¹ Here, these Quranic texts made distinction between the non-Muslim aggressors and non-aggressors.⁹⁷² Therefore, in this period, the Islamic discourse was featured with reasonableness, as it does not call for hatred. At the same time, it defends the interests of the Muslim society and is more restricting when it comes to wars, assault, and breaking treaties with Muslims. It is noted that the Islamic discourse tackles two important issues; one issue is concerning the religious belief and the view of other religions as not right; and the other issue is concerning how to deal with people from other religions.

The first aspect: the language of Islamic discourse in spreading the beliefs of Islam:

The followers of every religion believe that their religion is the right one and any other religion is not. This is the nature of religions. Therefore, discourses in holy books always express this view, where they mention frankly that their religion is the right one and there are no common denominators in belief. For example:

According to Deuteronomy (13:15-16), God said to the Prophet Moses (concerning how to treat any town in their midst if it should turn to idolatry):

"you must certainly put to the sword all who live in that town. You must destroy it completely, both its people and its livestock... You are to gather all the plunder of the town into the middle of the public square and completely burn the town and all its plunder as a

⁹⁶⁸ Al Qutb Tablyah, Islam and Human Rights, p. 42-45, Dar Arab Thought for Printing, Publishing and Distribution, Second Edition 1984, Cairo.

⁹⁶⁹ The Quran, verse (9:7).

⁹⁷⁰ The Quran, verse (2:190).

⁹⁷¹ The Quran, verse (60:8).

⁹⁷² Al Qutb Tablyah, Islam and Human Rights, p. 42-45, Dar Arab Thought for Printing, Publishing and Distribution, Second Edition 1984, Cairo.

whole burnt offering to the LORD your God. That town is to remain a ruin forever, never to be rebuilt,"⁹⁷³

According to the Fourth book of Moses called Numbers (31:1–2, 17) that stated:

"1: And the Lord spoke unto Moses, saying, 2: Avenge the children of Israel of the Midianites: afterward shalt thou be gathered unto thy people ... 17: Now therefore kill every male among the little ones, and kill every woman that hath known man by lying with him."⁹⁷⁴

Similarly, the discourse related to belief in the sources of Islamic revelation, which are the Qur'an and Sunnah, aims at achieving the principle of complete loyalty to the followers of Islam and repudiating the followers of other religions, God said: "O ye who believe! take not for protectors your fathers and your brothers if they love infidelity above faith: if any of you do so, they do wrong."⁹⁷⁵ However, the belief of repudiating non-Muslims does not mean that Islamic discourse is extremist and provokes hatred even in wars. According to the Sunnah, the prophet (peace be upon him) once said to one of his armies: "do not embezzle the spoils; do not break your pledge; and do not mutilate (the dead) bodies; do not kill the children."⁹⁷⁶ The same advice was given by the first Caliph Abu Bakr (Allah be pleased with him) to his army while sending it on the expedition to the Syrian borders is permeated with the noble spirit with which the war in Islam is permitted. He said:

"Stop, O people, that I may give you ten rules for your guidance in the battlefield. Do not commit treachery or deviate from the right path. You must not mutilate dead bodies. Neither kill a child, nor a woman, nor an aged man. Bring no harm to the trees, nor burn them with fire, especially those which are fruitful."⁹⁷⁷

Therefore, in terms of beliefs, the religion of Islam repudiates non-Muslims and does not accept any negotiations in this respect, as there is no common denominator with them. However, Islam is modestly flexible with those who are peaceful, non-aggressive, and not violating of Muslims' rights. Even in the event of wars, Islamic discourse usually cares for the rights of infants, women, clergymen, and all

⁹⁷³ Bible Gateway, Deuteronomy 13:15- 16 New English Translation (NET Bible), via: <https://www.biblegateway.com/passage/?search=Deuteronomy%2013:15-17&version=NET> (Last access 30 July 2016)

⁹⁷⁴ Bible Gateway, Numbers 31 King James Version (KJV), via: <https://www.biblegateway.com/passage/?search=Numbers+31&version=KJV> (Last access 30 July 2016)

⁹⁷⁵ The Quran, verse (9:23).

⁹⁷⁶ Imam Muslim, Sahih Muslim, Hadith Number 4294, Book. 19, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

⁹⁷⁷ Imam Muslim, Sahih Muslim, Introduction of the book of Jihad and expedition, p. 473, Book. 19, (Abdul Hamid Siddiqui trans.), New Delhi: Kitab Bhavan, 2000.

civilians. It also teaches a peaceful discourse that calls for maintaining the environment and bans the destruction of cities as clarified in the text of the Sunnah above.

The second aspect: The Islamic discourse concerning dealings and coexistence with non-Muslims:

Traditional Islamic law rejected every discourse, word, or action that calls for hatred either among the members of the Muslim community or the non-Muslims.⁹⁷⁸ On the level of the Muslim community, the prophet (peace be upon him) refused that a Muslim produces a word that can be a reason for the spread of hatred among the members of society. According to the Sunnah, a companion of the prophet called Abu Dhar said:

"There was an altercation between me and one of the people among my brothers. His mother was a non-Arab. I reproached him for his mother. He complained against me to Allah's messenger (may peace be upon him). As I met Allah's messenger (may peace be upon him) he said: "Abu Dhar, you are a person who still has (in him the remnants) of the days (of Ignorance)." ⁹⁷⁹

Regarding dealing with the followers of other religions, although the prophet's era featured intensive dispute between the supporters of Islam who believed that there is no God but Allah and their opponents who believed in polytheism, Islamic discourse took a moderate and respectful approach with others in discussions between Muslims and non-Muslims. They did so by not insulting non-Muslims.⁹⁸⁰ In this respect, Allah says in the Quran: "Reville not ye those whom they call upon besides Allah, lest they out of spite revile Allah in their ignorance."⁹⁸¹

Accordingly, Islamic law prohibits the discourse of hatred against non-Muslims in order to avoid a mutually hostile discourse or hostile actions between the parties. It is clear that the language of discourse concerning treatment between the followers of different religions is based upon common denominators and interests that are represented in the dire need of peaceful coexistence, exchange of experiences, world development, and spreading thoughts and cultures. Hate speech was not a characteristic of the first Islamic era, as Islamic law did not allow the practice of hostile discourse except against those who fight Muslims

⁹⁷⁸ Mohammed Zoheily, Religious freedom in Islamic Sharia, Vol. 27, p. 388, Damascus journal of economic and legal sciences, The first issue 2011.

⁹⁷⁹ Imam Al-Bukhari, Sahih Al-Bukhari, Hadith Number. 29, Vol. 1, book 2, (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

⁹⁸⁰ Firas Abdul Jalil, Freedom of expression in the Holy Quran, p. 170, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

⁹⁸¹ The Quran, verse (6:108).

and break treaties with them as a normal reaction. Yet, Islamic law was keen on peaceful coexistence among followers of different religions and advocated spreading the culture of agreement and understanding that contributes to tolerant discourse inside religiously diverse communities. The Madinah treaty might be the most prominent example of this when the prophet (peace be upon him) came to Al-Madinah, he wrote down promptly a peace treaty between Muslims and Jews and others. This treaty stated the following: "The Jews shall maintain their own religion and the Muslims theirs. Loyalty is a protection against treachery. The close friends of Jews are as themselves." ⁹⁸² It is noted that this treaty, known as the constitution of Madinah, provided a foundation for moderate discourse with the non-Muslims as it recognized Jews as an independent group who allied with the Muslim community. The tolerant discourse continued until late in this era. The Prophet Muhammad (peace be upon him) delivered a speech to the people of the book from Yemen saying: "Any Jew or Christian that converts to Islam, he will be considered one of the believers, has the same rights and does the same duties. And whoever prefers to maintain his religion (Judaism or Christianity), he will not be obliged to convert away from it..."⁹⁸³ Also, he sent his speech to the people of Najran city saying:

"Najran and its people and their religion and their lands are under Allah's and Muhammad's (peace be upon him) protection. They are not obliged to give up any of their rights neither their religion. No bishop is obliged to change his identity as a bishop, no monk is obliged to change his identity as a monk." ⁹⁸⁴

The prophet Muhammad adopted a holistic approach to fight against the hatred discourse. He did not react to the hatred discourse practiced by the members of the tribe of Quraish towards Islam and Muslims in the same way. They claimed that Muhammad (peace be upon him) was a wizard and crazy; they made fun of him and mocked him.⁹⁸⁵ But when he achieved victory over them in the year 631, he forgave them and spread the discourse of tolerance when he said: "People of Quraish! What do you think I'm going to

⁹⁸² Prophet Muhammad's Treaty with Jews, (622 C.E.), Translated by Dr. A. Zahoor and Dr. Z. Haq via: <http://www.cyberistan.org/islamic/treaty22.html> (Last access July 15, 2016)

⁹⁸³ Ibn Taymiyyah, Answering Those who Altered the Religion of Jesus Christ, Vol. 1, p. 314, Saudi Arabia- Riyadh: Dar Al- Asemah Publishing and Distribution (1999)

⁹⁸⁴ Abu Yusuf (d. 798) ,Harvest (Al- Kharj), Directed by: Taha Abdel Raouf Saad, Saad Hassan Mohamed, Azhar Library of Heritage, p. 84

⁹⁸⁵ Muhammad Al-Tabari, Tafsir al-Tabari (The commentary on the Quran by Al-Tabari), Vol. 17, p. 403, 404, Dar Hajr for printing, publishing, distribution and advertising, First Edition 2001

do with you? They said: you are an honored man and son of an honored man. Then Muhammad (peace be upon him) said: then you are free to go your way."⁹⁸⁶

To conclude, hate speech is prohibited according to Islamic law and no discourses bore the spirit of hatred. The Islamic discourses that initially give the reader the impression that they call for hatred and hostility must be judged after knowing exactly the context, the purpose for which they were issued, and the circumstances when and where they were issued. The examples given above clarify that it was not for hatred or violence against others, but it was more like a reaction to a war that the enemy started in the first place. Concerning the discourses that defend religious beliefs, we can say that this is the nature of religions, that every religion necessitates the complete loyalty for that religion and the believers in this religion assume that their beliefs are true and any other beliefs are not and should be repudiated. As for the discourse related to the treatment of the non-Muslims, it was not hostile but called for coexistence, caring for the interests of other, and granting the man his dignity and freedom. Thus, what Spencer said about Islam is not criticism, but hate speech against Islam and Muslims that contributes to the spread of the phenomenon of Islamophobia.

6. 3. Hate Speech Toward Islam: Islamophobia

6. 3. 0. Introduction

Islamophobia literally means “unreasoned and undue fear of Islam.”⁹⁸⁷ The term “Islamophobia” was defined as a concept in the 1997 Runnymede Trust Report that defined it as a: “shorthand way of referring to dread or hatred of Islam and, by extension, to fear or dislike of all or most Muslims.”⁹⁸⁸ After the attacks of September the eleventh, some anti-Islamic organizations described Islam as a religion of hatred and violence. This came as a reaction to the

⁹⁸⁶ Ibn Hajar al-Asqalani, Fath Al-Bari, Vol. 8, p. 18 Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1959)

⁹⁸⁷ The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 9

⁹⁸⁸ ICLA Admin, The Problematic Definition of “Islamophobia”, Published on 9-22-2013, via: <http://www.libertiesalliance.org/2013/09/22/problematic-definition-islamophobia/> (Last access 16 August 2016), Quoting: Runnymede Trust, “Islamophobia: a challenge for us all”, 1997, via: <http://www.runnymedetrust.org/uploads/publications/pdfs/islamophobia.pdf>

terrorist attacks carried out by some terrorist groups calling themselves Islamic.⁹⁸⁹ However, calling all Muslims terrorists, as these Islamophobic organizations do, is shortsighted. Some actions made by a small group do not define all Muslims, nor do they represent them [Muslims].⁹⁹⁰

6. 3. 1. The Concept of Islamophobia

In the past 10 years, scholars interested in the issues of Islamophobia have been trying to come to an accurate definition for the phenomenon of Islamophobia. It remains, however, a controversial matter. In 1997, the commission on British Muslims and Islamophobia released in the Runnymede Trust Report says "Islamophobia: a challenge for All of us," institutionalizing the word "Islamophobia" to mean, "prejudice vis-à-vis Muslims."⁹⁹¹ In its report on defamation of religions and universal efforts against discrimination, the United Nations Special Rapporteur gave this definition of Islamophobia: “ refers to a baseless hostility and fear vis-à-vis Islam, and as a result a fear of and aversion towards all Muslims or the majority of them. It also refers to the practical consequences of this hostility in terms of discrimination, prejudices and unequal treatment of which Muslims (individuals and communities) are victims and their exclusion from major political and social spheres.”⁹⁹²

⁹⁸⁹ Hate crimes against Muslims peaked in 2001, following the 9/11 attacks which resulted in 481 anti-Muslim hate crime incidents that year. There have been between 105 and 160 incidents per year since then, until 2015 which was the second highest since reporting began in 1992. See the Huffington, FBI: Hate Crime Went Up 6.8 Percent In 2015; Anti-Muslim Incidents Surge To Second Highest Ever, via: http://www.huffingtonpost.com/brian-levin-jd/fbi-hate-crime-up-68-in-2_b_12951150.html?section=us_politics (Last access February 28, 2017)

According to the FBI, the number of hate crimes against Muslims increased by 67% in 2015, compared with the year before. There were 257 incident of hate against Muslims in the US compared with 154 in 2014. See FIB Report on Latest Hate Crime Statistics Released, via: <https://www.fbi.gov/news/stories/2015-hate-crime-statistics-released> (Last access February 28, 2017)

⁹⁹⁰ Baker, Gordon P., and Peter M.S. Hacker, Wittgenstein: Meaning and understanding: Essays on the philosophical investigations, p. 184-190 Oxford: Blackwell 2004. See, also, S. Sayyid, Islamophobia, p. 10-25, Published by: Islamophobia Research and Documentation Project, Center for Race and Gender, University of California, Berkeley, 2014.

⁹⁹¹ Runnymede Trust, “Islamophobia: A Challenge for All of Us”, 1997, via: <http://www.runnymedetrust.org/uploads/publications/pdfs/islamophobia.pdf> (Last access August 13 2015)

⁹⁹² United Nation - General Assembly - Human Rights Council, Sixth session, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights ,21 August 2007, p. 8

Since this research discusses all the issues from an Islamic perspective, it is best to display the definition of Islamophobia according to the Organization of Islamic Cooperation as “a contemporary form of racism, continues to manifest itself through different forms of prejudice and discrimination against Muslims both as individuals and as a community. Taking root in various economic, social, political and cultural considerations, Islamophobia not only contributes to the propagation of negative stereotypes against Islam and its followers, but also leads to more serious human rights violations such as discrimination against Muslims and attacks on their physical integrity, particularly Muslim women who are often more easily identified due to their distinctive attire.”⁹⁹³

The concepts of Islamophobia adopted by extremist groups against Islam and Muslims derive from forms of misunderstandings about Islam. First, Islam is a religion is rigid in accepting emerging realities in the society.⁹⁹⁴ Second, Supreme moral principles of Islam are in contradiction with other faiths and cultures.⁹⁹⁵ Third, Islam, in the perspective of the secular ideals of the European Enlightenment, is a religion of non-Western standards and inferior, because it has a brutal and ancient practices that are disproportionate to the Europeans.⁹⁹⁶ Fourth, Islam is not valid in politics based on its violent ideology.⁹⁹⁷

The Islamophobia discourse seeks to emphasize the previous concepts in the audience’s minds, and aims at displaying Islam as the essential problem of humanity so as to deny Islamic sublime values and all the noble virtues that Islam has taken root in the mind throughout fourteen

⁹⁹³ The OIC Observatory on Islamophobia, 7th OIC Observatory Report on Islamophobia from October 2013 to April 2014, Presented to the 41 st council of foreign ministers, Jeddah, Kingdom of Saudi Arabia Jeddah, Kingdom of Saudi Arabia on 18–19 June 2014, p. 8

⁹⁹⁴ Dalal Alshamrani, Islamophobia, International Journal of Humanities and Social Science (Aug 2013), Vol. 3, No. 15, p. 177

⁹⁹⁵ Beck, Glenn, It Is About Islam: Exposing the Truth About Isis, Al Qaeda, Iran, and the Caliphate, p. 101-107, First Threshold Editions/Mercury Radio Arts trade paperback edition, Threshold Editions/Mercury Radio Arts, 2015.

⁹⁹⁶ John L. Esposito and Ibrahim Kalin, Islamophobia: The Challenge of Pluralism in the 21st Century, p. 3-20, New York: Oxford University Press, 2011.

⁹⁹⁷ Jonathan Lyons, Islam Through Western Eyes: From the Crusades to the War on Terrorism, p. 111-159, Columbia University Press 2012

centuries of tolerance. These accusations are trying to abuse Islam. This direction of negative thinking "reflects and embodies irrational and vicious prejudices on the part of disseminators."⁹⁹⁸

The phenomenon of Islamophobia has historical backgrounds. Those interested in the history of its first appearance in its modern form have differing opinions; however, it probably first appeared as a concept in 1980. It was recorded in 1997 by the Hyde Park Christian Fellowship, This theory suggests that

"Islamophobia as a term was first coined by a Muslim researcher at the Policy Studies Institute (PSI) in the late 1980s. At the same time though, more authoritative sources at the Runnymede Trust were claiming something quite different. Given that the term had already been used by the Runnymede Trust and had achieved some socio-political discursive resonance, the Hyde Park Christian Fellowship's theory appears to have little credence."⁹⁹⁹

This section will concentrate on the Islamophobic discourses after the attacks of September the eleventh. Such discourse appeared and increasingly arose after the spread of the stereotypical image of wrong assumptions about Islam and Muslims. These discourses were mostly by influential leaders.¹⁰⁰⁰ The reason why hate speech against Muslims increased was because Western people, Americans in particular, felt helpless and depressed after the September eleven attacks.¹⁰⁰¹ As a result, receiving and hearing hate speech from the Islamophobic groups became an acceptable thing.¹⁰⁰²

6. 3. 2. The Factors Which Contribute in the Spread and Increase of Islamophobia

There are factors contributed in the spread and increase of Islamophobia as a phenomenon. The cultural and historical background of the Western people against Islam and Muslims produced deeply-rooted negative feelings, and a historical position against Islam as a religion, and Muslims

⁹⁹⁸ Ekmeleddin Ihsanoglu, *Islamophobia and Terrorism: Impediments to the culture of peace*, Arches Quarterly, *Islamophobia and Anti-Muslim Hatred: Causes & Remedies*, Vol. 4, p.11, The Cordoba Foundation, London 2012

⁹⁹⁹ Chris Allen, *Islamophobia*, p. 6, Ashgate Publishing Limited, ISBN 9781409417576, England and USA 2010, Quoting: Jenny James, 'When Fear is a Crime' The Muslim-Christian Debate Website, March 1997, via: <http://debate.org.uk/topics/politics/jenny4.htm>

¹⁰⁰⁰ Hugh Muir & Laura Smith, *Islamophobia Issue, Challenges and Action*, A report by the Commission on British Muslims and Islamophobia, p10, Trentham Books Limited, First edition, England 2004

¹⁰⁰¹ John L. Esposito and Ibrahim Kalin, *Islamophobia: The Challenge of Pluralism in the 21st Century*, p. 191-210, New York: Oxford University Press, 2011.

¹⁰⁰² Hugh Muir & Laura Smith, *Islamophobia Issue, Challenges and Action*, A report by the Commission on British Muslims and Islamophobia, p10, Trentham Books Limited, First edition, England 2004.

and their civilization.¹⁰⁰³ The Islamophobic discourses are a natural result of the colonial period. The colonialism was based on two things. The first was based on the fact that the human race is different on the basis of specific physical and mental characteristics.¹⁰⁰⁴ "This vision was partly used to legitimize the colonial project as a whole, by depicting the local colonised population as not being (fully human). Taking away their humanity made it easier to justify the spoils of the conquest, along with unequal treatment of indigenous population."¹⁰⁰⁵ The second is based on the civilizational superiority of the West.¹⁰⁰⁶ "It consists of presenting the target group in need of assistance and reformation: (we are going to help you become like us) is the main idea at work. These offers of assistance, for example, often relate to (helping African countries develop) and to (free the local populations) from their myth and superstitions; and to (free Muslim women) (against their will) from archaic social / religious/ family anachronism"¹⁰⁰⁷

These racist theories greatly helped in spreading Islamophobia fast and in its approval by some of Westerners. "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights" pointed to such racism that calls people to be afraid of Islam, and tries to force Muslims to abandon their religion and culture through: "a discourse that in many cases

¹⁰⁰³ John L. Esposito and Ibrahim Kalin, *Islamophobia: The Challenge of Pluralism in the 21st Century*, p. 3-20, New York: Oxford University Press, 2011. See, also, Alaa Bayoumi, *The rise of Islamophobia in Western societies*, via:

<http://www.aljazeera.net/knowledgegate/opinions/2006/10/12/%D8%B5%D8%B9%D9%88%D8%AF-%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%88%D9%81%D9%88%D8%A8%D9%8A%D8%A7-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85%D8%B9%D8%A7%D8%AA-%D8%A7%D9%84%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9> (Last access 16 August 2016)

¹⁰⁰⁴ S.Sayyid, S. and Abdoolkarim Vakil, *Thinking Through Islamophobia*, p. 23-44 , New York: Columbia University Press 2010.

¹⁰⁰⁵ Marwan Muhammad, *Islamophobia: A Deep- Rooted Phenmenon*, Published by Arches Quarterly, *Islamophobia and Anti-Muslim Hatred: Causes & Remedies*, Vol. 4, p.96, The Cordoba Foundation, London 2012

¹⁰⁰⁶ S.Sayyid, S. and Abdoolkarim Vakil, *Thinking Through Islamophobia*, p. 23-44 , New York: Columbia University Press 2010.

¹⁰⁰⁷ Marwan Muhammad, *Islamophobia: A Deep- Rooted Phenmenon*, Published by Arches Quarterly, *Islamophobia and Anti-Muslim Hatred: Causes & Remedies*, Vol. 4, p.96, The Cordoba Foundation, London 2012

persuades Muslims living abroad to “assimilate” in local cultures, implicitly or explicitly requesting them to abandon their cultural and religious heritage and even their visibility.”¹⁰⁰⁸

Being silent about such discrimination, and legal and political acceptance for such hate speech, legitimizes Islamophobia as an ideology that allows hate speech against Islam and Muslims.¹⁰⁰⁹

These racist theories appear in some Western speeches, such as:

“Islam is, quite simply, a religion of war... [American Muslims] should be encouraged to leave. They are a fifth column in this country. Why Islam is a Threat to America and the West by Paul Weyrich and William Lind. We should invade their countries, kill their leaders and convert them to Christianity. We weren’t punctilious about locating and punishing only Hitler and his top officials. We carpet bombed German cities, and killed civilians. That’s war. And this is war.”¹⁰¹⁰

Colonialism not only contributes to the spread of hate speech toward Muslims, but also contributed significantly to its spread among Muslims against each other. Until the end of the Ottoman era, the Islamic world was mostly one Islamic State. However, the Islamic world became divided into several countries and regions due to the western colonization of most of the Islamic Arab regions.¹⁰¹¹ This division took place according to hostile colonization plans such as the Sykes-Picot agreement.¹⁰¹² This division led to the emergence of several orientations in the Islamic

¹⁰⁰⁸ United Nation - General Assembly - Human Rights Council, Sixth session, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights ,21 August 2007, p. 7-9 . He stressed the fact that some Westerns are very racist, and fanatical about their civilization; and on their refusal of any other civilization:

"It is possible to see Islamophobia as a direct consequence of the Manichean Cold War-type of ideology of a clash of civilizations and religions - of ‘us against them,’ ‘enlightenment against darkness,’ ‘civilization against barbarism,’ which is dominant in several political, intellectual and media circles. The bottom line of this dogma is the relentless characterization and portrayal of Islam as possessing values that are fundamentally opposed to those of Western civilization, which is postulated as rooted in Christianity."

¹⁰⁰⁹ Ibid

¹⁰¹⁰ Hugh Muir & Laura Smith, Islamophobia Issue, Challenges and Action, A report by the Commission on British Muslims and Islamophobia, p10, Trentham Books Limited, First edition, England 2004, Quoting: Columnist Ann Coulter, National Review, 13 September 2001

¹⁰¹¹ See Graham E. Fuller, A world Without Islam, p, 254, Little Brown and Company, New York, First Edition 2010. Fuller, in the context of success sources of Western colonialism, refers that:

"A key source of their success lay with support of European powers and Russia, which were ready to back Christian revolts in order to whittle down the power and size of the Ottoman state, subvert it, and gain new clients in the region."

¹⁰¹² The Sykes-picot Agreement was a secret agreement between the governments of the United Kingdom of Great Britain and Ireland and French Third Republic with assent of the Russian Empire. The

world, thus the hostile discourse against others began to appear due to the difference in cultural and economic orientations. The most significant example of this hostile discourse is when the western colonization ended because of the constant disagreement on the borders between the Islamic countries, as the policy of the western colonizers sought the fragmentation of Arab countries into small countries under the policy of "divide and rule." Actually, this policy has achieved success in destructing the relationships between the Islamic states even after announcing their independence, with each country engaging in conflicts with its neighbor states. Western colonization fed the rivalry between the countries by making use of tribal and doctrinal distinctions inside these countries.¹⁰¹³

There are many examples of wars that rose because of the borders. These wars were fomented by hostile discourse. Yet, the effects of this division are still ready to reignite if any such discourse is made and one group is incited against the other. The hardest representation of these wars was between Algeria and Morocco because of the dispute around the region "Tandouf and Hassi Baida," in which hostile discourse was exchanged between the two parties; the situation developed and these disputes turned into a war in 1963 that lasted 4 months.¹⁰¹⁴ Due to this sort of hate speech, most Arab countries have waged war due to border disputes, such as the war between Libya and Chad in 1987¹⁰¹⁵ and the war between Somalia and Ethiopia in 1977.¹⁰¹⁶ Most countries and societies of the Islamic world used to live in groups or small countries or in the shade of a

negotiation of the treaty occurred between November 1915 and March 1916. The agreement was signed on 16 May 1916. The objective of this agreement was to dismantle the Ottoman Empire. This agreement has led to the division of the areas that were under Ottoman control to areas under French control and other areas under British control. See Britain and France conclude Sykes-Picot agreement, The day in history, via: <http://www.history.com/this-day-in-history/britain-and-france-conclude-sykes-picot-agreement> (Last access 30 July 2016). For more information, see full text of this agreement through: The Sykes-picot Agreement: 1916, Yale Law School, Lillian Goldman Law Library in memory of Sol Gold man via: http://avalon.law.yale.edu/20th_century/sykes.asp (Last access 30 July 2016)

¹⁰¹³ Henry Laurens: "Le royaume impossible, la France et la genese du monde arabe", A. Colin, Paris, 1990. See, also, Dr. Mosaed Dhaher, Arab Renaissance and Japanese Renaissance : the similarity of introductions and the different results, p55, Kuwait, Alam Al-mareefa for Publishing and Printing (1999).

¹⁰¹⁴ Al-jazeera.net, Sand war, via:

<http://www.aljazeera.net/encyclopedia/military/2014/12/9/%D8%AD%D8%B1%D8%A8-%D8%A7%D9%84%D8%B1%D9%85%D8%A7%D9%84> (Last access 1 August 2016)

¹⁰¹⁵ James Ciment, Encyclopedia of Conflicts Since World War II, p.119, Routledge: Taylor & Francis group, London And New york, Second edition (2007)

¹⁰¹⁶ Gebru Tareke, The Ethiopia-Somalia War of 1977, The International Journal of African Historical Studies, Vol. 33, No. 3 (2000), pp. 635-667, Boston University African Studies Center

party or a tribe and they consider everyone not on the same path, as they are an enemy who should be hated and discarded. Thus, the Islamic world became divided into several societies that have no communication with others and away from development and knowledge.¹⁰¹⁷ This regrettable reality was the product of colonization that restricted freedom and ignited hatred among the components of the same Islamic society for religious, political, cultural, or even sporting reasons. Also, the discourses practiced by the media, either written or visual, contributed largely in the spread of hatred discourse for discriminative reasons in the Arab world as colonization had established in the Arab mind that the other is an enemy that schemes and conspires against them.

The increase in the number of Muslim refugees and asylum applicants was the other reason behind the increase of the spread of Islamophobia.¹⁰¹⁸ In Britain, The Home Office issued a poster on the alleged deception of asylum applicants; the poster focused on a person with a Muslim name.¹⁰¹⁹ By the same token, Robert Kilroy-Silk, on Sunday, 4th January 2004, said: “We have thousands of asylum seekers from Iran, Iraq, Algeria, Egypt, Libya, Yemen, Saudi Arabia and other Arab countries living happily in this country on social security,” . Arabs, he says in the same article, are “threatening our civilian populations with chemical and biological weapons. They are promising to let suicide bombers loose in Western and American cities. They are trying to terrorize us, disrupt our lives.”¹⁰²⁰ As a result, Islamophobic discourses describing Muslims to be terrorists and dangerous to Europe and America rose to the surface.¹⁰²¹

Another reason is the terrorist attacks around the world, attacks of September the eleventh, 2001, in particular, whose perpetrators generally used Islamic slogans to justify their crimes. Such

¹⁰¹⁷ Mohamed Omar, Fanaticism is a Serious Pest, UAE: Khaleej Newspaper, Date of Publication: 04/03/201, via: <http://www.alkhaleej.ae/supplements/page/b6257da3-felf-4e86-b352-7603df9158dc> (Last access 1 August 2016)

¹⁰¹⁸ John L. Esposito and Ibrahim Kalin, eds. Islamophobia: The Challenge of Pluralism in the 21st Century, p. 3-20, New York: Oxford University Press, 2011.

¹⁰¹⁹ The story about the Home Office poster was in the Muslim Weekly, 5-11 December 2003, p.11. The text on the poster read ‘Ali did not tell us his real name or his true nationality. He was arrested and sent to prison for 12 months.’ To know more discussion about this poster, see Dr Abduljalil Sajid, Islamophobia: A New Word for an Old Fear, a Paper Presented to OSCE Conference on Anti-Semitism and on Other Forms of Intolerance, Cordoba, 8 and 9 June 2005, p. 6, Footnote no 4, via: <http://www.osce.org/files/documents/2/a/15618.pdf> (Last access March 2, 2017)

¹⁰²⁰ Hugh Muir & Laura Smith, Islamophobia Issue, Challenges and Action, A report by the Commission on British Muslims and Islamophobia, p. 8, Trentham Books Limited, First edition, England 2004.

¹⁰²¹ Jonathan Lyons, Islam Through Western Eyes: From the Crusades to the War on Terrorism, p. 111-159, Columbia University Press 2012.

events greatly contributed to the increase in the number of Islamophobic discourses.¹⁰²² As a result, so many European and American communities started to believe that the words 'Muslim' and 'terrorist' were synonymous; that the war against terrorism is, in reality, a war against Islam and Muslims.¹⁰²³

In addition, there is the role played by negative Western media outlets that issued reports and disinformation, and spread negative images about Islam and Muslims. They presented Muslims as the source of all evil, and as a hostile and violent people.¹⁰²⁴ So many reports in the newspapers or websites display Muslims as natural terrorists and hostile people.¹⁰²⁵ For example, a major Polish Quality paper in Rzeczpospolita declared:

"Muslims living in Europe are not only not assimilating but what is more they might be striving for the abolishment of the existing legal order. If a certain religious group is more susceptible to create environments which are a breeding ground of terrorism, why should not we make this group a subject of special control?"¹⁰²⁶

Such wrong news reports and information contributed to the misuse of freedom of expression, which led to harming and disparaging Muslims through emphasizing discrimination against them.¹⁰²⁷

¹⁰²² Alaa Bayoumi, The rise of Islamophobia in Western societies, via:

<http://www.aljazeera.net/knowledgegate/opinions/2006/10/12/%D8%B5%D8%B9%D9%88%D8%AF-%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%88%D9%81%D9%88%D8%A8%D9%8A%D8%A7-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85%D8%B9%D8%A7%D8%AA-%D8%A7%D9%84%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9> (Last access 16 August 2016)

¹⁰²³ Hugh Muir & Laura Smith, Islamophobia Issue, Challenges and Action, A report by the Commission on British Muslims and Islamophobia, p.9, Trentham Books Limited, First edition, England 2004, Quoting: Columnist Ann Coulter, National Review, 13 September 2001

¹⁰²⁴ Konrad Pedziwiatr, Muslims in the Polish Media - the new Folk Devil?, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.92, The Cordoba Foundation, London 2012

¹⁰²⁵ Bazian, Hatem, 2012. Muslims- Enemies of the State: The New Counter Intelligence Program (COINTELPRO), p.165-206, Islamophobia Studies Journal, Spring 2012.

¹⁰²⁶ Konrad Pedziwiatr, Muslims in the Polish Media - the new Folk Devil?, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.92, The Cordoba Foundation, London 2012, Quoting: Rzeczpospolita (03-17-2005), Europejczycy dyskryminuja muzułmanom

¹⁰²⁷ The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p.9

Moreover, not knowing the truth about the Islamic religion in non-Muslim communities helped in the spread of Islamophobia. Such ignorance was clearly shown through the concepts of some non-Muslim communities that believe Islam is the religion that was "spread using the sword." Such ignorance made Western communities believe what Islamophobia supporters propose about Islam and Muslims, as the supporters spread hostile ideas about Islam and describe Muslims as a threat to societies.¹⁰²⁸ Such arguments against Islam contained above, are inaccurate due to their ignorance of the reality of Islam and its history. Thomas Arnold emphasizes that "Many of the facts of this history are wholly unrecorded, and what can be gleaned from native chronicles and the works of European travelers, officials and missionaries is necessarily fragmentary and incomplete. But there is evidence enough to show the existence of peaceful missionary efforts to spread the faith of Islam during the last six hundred years: sometimes indeed the sword has been drawn in support of the cause of religion, but preaching and persuasion rather than force and violence have been the main characteristics of this missionary movement. The marvellous success that has been achieved has been largely the work of traders, who won their way to the hearts of the natives, by learning their language, adopting their manners and customs, and began quietly and gradually to spread the knowledge of their religion by first converting the native women they married and the persons associated with them in their business relations. Instead of holding themselves apart in proud isolation, they gradually melted into the mass of the population, employing all their superiority of intelligence and civilisation for the work of conversion and making such skilful compromises in the doctrines and practices of their faith as were needed to recommend it to the people they wished to attract."¹⁰²⁹

The campaigns and hate speech about Muslims by Islamophobic supporters have negative impacts and consequences. Muslims in the West are living with many difficulties in the wake of rapidly increasing Islamophobia, wherein their basic rights become vulnerable to violation.¹⁰³⁰ Islamophobia comes in several forms and results in different effects. Ekmeleddin Ihsanoglu says of such effects:

¹⁰²⁸ Ibid

¹⁰²⁹ T. W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, p. 300- 301, London Constable & Company Ltd, Second Edition: Revised and Enlarged 1913.

¹⁰³⁰ S. Sayyid, *Islamophobia*, p. 10-25, Published by: Islamophobia Research and Documentation Project, Center for Race and Gender, University of California, Berkeley, 2014.

"Deliberate and systematic denigration of Islam in the form of campaigns of incitement to religious hatred targeting Muslims entail negative consequences for every Muslim individual, be it in the West or elsewhere, starting from having an adverse impact on their dignity and identity. However particularly for the Muslim communities and individuals in the West, the frequency of hate speech paves the way for manifestation of hatred towards them in various forms including verbal and physical attacks and leads to increased discrimination and isolation in the society. The negative context thus created makes it easier to raise questions even on aspects related to enjoyment of their most basic human rights, including freedom of religion."¹⁰³¹

One of the negative impacts of such hate speech is classifying Muslims as a suspect group due to the actions of a very small number, who are generally thought to be a representation of Islamic communities and religion by Islamophobic people.¹⁰³²

"This thus raises a number of questions, for example, where is the 'randomness' when most individuals interrogated by airport police have a beard or wear a headscarf? Why are even good Arab neighbours portrayed as ruthless assassins on television? How do Muslims internalise such a state of suspicion that they need to overplay politeness and civil awareness?"¹⁰³³

Another negative impact of such speech is that it creates a cultural gap and social weakness for the Muslim youth. It negatively affects the economic and legal status of Muslims through dismissing them from most sectors in the Western communities.¹⁰³⁴

6. 3. 3. The Role of the Organization of Islamic Cooperation (OIC) Against Hate Speech Issued by Islamophobia Supporters

As Islamophobia discourses increasingly spread in the West and the USA, and since the Islamic community forms a major part of the world; the Organization of Islamic Cooperation realized the danger of the appearance of Islamophobia. The Organization saw how such a phenomenon opposes the principles and regulations of International Human Rights Law, which

¹⁰³¹ Ekmeleddin Ihsanoglu, Islamophobia and Terrorism: Impediments to the culture of peace, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.12, The Cordoba Foundation, London 2012

¹⁰³² Bazian, Hatem, Muslims- Enemies of the State: The New Counter Intelligence Program (COINTELPRO), p.165-206, Islamophobia Studies Journal, Spring 2012

¹⁰³³ Marwan Muhammad, Islamophobia: A Deep- Rooted Phenomenon, Published by Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.96, The Cordoba Foundation, London 2012

¹⁰³⁴ John L. Esposito and Ibrahim Kalin, eds. Islamophobia: The Challenge of Pluralism in the 21st Century, p. 21-46, New York: Oxford University Press, 2011.

clearly forbids any hate speech against people, discrimination, or incitement to discriminate or to be violent.¹⁰³⁵

Although the Organization of Islamic Cooperation announced its commitment to freedom of expression and freedom of choice regarding religion and considered such freedoms basic human rights, it firmly opposes the misuse of such concepts to allow hate speech and incitement to go against religious principles and beliefs.¹⁰³⁶ As the OIC Rejects Islamophobia, it also rejects any similar phenomena against any other religion. Professor Ikhmildin considers

“that when the OIC calls for joint action against Islamophobia, it does not negate the existence of hatred against other religions -- and it extends its hand of cooperation to counter other manifestations of religious intolerance, including anti-Semitism and Christianophobia. The OIC also believes that eliminating misperceptions about Western and other world cultures should also be considered as an important step in fostering a global culture of peace.”¹⁰³⁷

The Organization of Islamic Cooperation demands the International Community to end such phenomena, which are considered a form of extremism. It also seeks to emphasize the concept that terrorism has no religion. Therefore, Islam does not call for terrorism. In fact, Muslim countries have suffered from the true meaning of terrorism. Thus, such terrorist groups that claim to be Muslim are the true enemies of Islam and Muslims.¹⁰³⁸

Based on the fact that Islamophobia has become a great concern for the Islamic world due to the continuous campaigns held by supporters of Islamophobia who distort the true image of Islam, and because of the discrimination, hatred and abandonment of Muslims; the Organization of Islamic Cooperation during the 3rd Extra Ordinary Islamic Summit held in Mecca in December 2005, decided to establish the OIC Islamophobia Observatory.¹⁰³⁹ The observatory aimed to raise

¹⁰³⁵ The OIC Observatory on Islamophobia, 7th OIC Observatory Report on Islamophobia from October 2013 to April 2014, Presented to the 41 st council of foreign ministers, Jeddah, Kingdom of Saudi Arabia Jeddah, Kingdom of Saudi Arabia on 18–19June 2014, p. 2

¹⁰³⁶ Ibid

¹⁰³⁷ Ekmeleddin Ihsanoglu, Islamophobia and Terrorism: Impediments to the culture of peace, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.12, The Cordoba Foundation, London 2012.

¹⁰³⁸ The OIC Observatory on Islamophobia, 7th OIC Observatory Report on Islamophobia from October 2013 to April 2014, Presented to the 41st council of foreign ministers, Jeddah, Kingdom of Saudi Arabia Jeddah, Kingdom of Saudi Arabia on 18–19June 2014, p. 2-3

¹⁰³⁹ The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 2

awareness of the dangers of Islamophobia and counter it by monitoring all its forms and manifestations, in addition to initiating a structured dialogue to project the true values of Islam.¹⁰⁴⁰ During the meeting, the Organization decided to issue an annual report on Islamophobia around the world. These reports seek to achieve a collation of incidents and developments that vindicate the Ummah's concerns over the growing phenomenon of Islamophobia. It also provides an account of the activities and efforts on the part of the OIC Observatory and initiatives and efforts undertaken by the OIC Secretary General in countering Islamophobia and in bringing the issue to the forefront of the international community's agenda. It also aims to highlight and explain its dangerous repercussions on global peace and security and stresses the urgent need to muster a collective political will to combat it. The Organization of Islamic Cooperation issued a number of reports to observe the hate speeches and actions around the world, which are generally done by Islamophobic groups.¹⁰⁴¹ The Organization of Islamic Cooperation (Islamophobia Observatory) played the greatest role in the fight against the Islamophobic discourses through issuing these annual reports that included statistics for such speech; explaining both positive and negative implications resulting from such speech announced by official authorities. The OIC has held several conferences with international organizations to discuss the Islamophobic speech.¹⁰⁴²

¹⁰⁴⁰ Ibid.

¹⁰⁴¹ Ibid.

¹⁰⁴² Some of these conferences were:

1. The Doha Statement, signed by the UN Secretary General, the OIC Secretary General, the Secretary General of the League of Arab States, the First Deputy Prime Minister, Foreign Minister of Qatar, the Foreign Minister of Spain and Foreign Minister of Turkey, in Doha, Qatar on February 25, 2006, This Statement promoted properly dealing with misconceptions and defamation of Islam and Muslims in the West. See the OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 44
2. The OIC-EU Joint Forum, February 13, 2002. The Ministers of Foreign Affairs of the OIC Member and Observer Countries and the EU Member and Candidate Countries came together, on 12-13 February 2002, in Istanbul, for a Joint Forum at the invitation of the Foreign Minister of Turkey, to share their assessments of the world's present political situation and to promote understanding and harmony among civilizations. See the OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 45
3. The OIC co-sponsored a Side Event organized by the European Muslim Initiative for Social Cohesion (EMISCO) on "Combating Discrimination against Muslims and Islamophobia – A Normative Approach," during the OSCE High Level Conference on Tolerance and Non-Discrimination, held in Astana, Kazakhstan, in June 2010. See the OIC Observatory on Islamophobia, Fourth OIC Observatory Report on Islamophobia from May 2010 to April 2011, Presented to the 38th council of foreign ministers, Astana, Republic of Kazakhstan on June 28-30, 2011, p 34

6. 3. 4. Freedom to Criticize Religions, Including Islamophobia, from an International Law Perspective

The amount of hate speech against Islam and Muslims has increased and keeps threatening the safety, security, and stability of the world as a whole, and the Muslim community in particular. Islamophobia stands in opposition to the international efforts that seek to reinforce acceptance of multi-cultures and religions, and to reinforce the concepts of respect and religious tolerance. Freedom to criticize religions, without threat or discredit or invitation to hatred and hostility, is protected under freedom of expression under international law, as in Article 19 of ICCPR.¹⁰⁴³ This right includes freedom to criticize religion or ideology, or political or religious leader.¹⁰⁴⁴ The ambiguous issue as to whether criticism in the context of hatred, insults or ridicule of religions can be subject to restrictions on freedom of expression stipulated in international law or not. There are two different directions on this issue. The first direction is pro with the theory that defamation of religions is part of allowed criticism within the right of freedom of expression.¹⁰⁴⁵ Another is the rejectionist direction to consider defamation of religions as part of freedom of expression, but it believes that defamation of religions is one of the exceptions to freedom of expression.¹⁰⁴⁶

The first direction believes that criticism of religion, including defamation of religions, shall not be restricted as long as this does not involve an explicit call to exercise the violence on the basis of racial discrimination against an individual or a particular group, even if the opinion involved some exaggeration or harsh criticism, whom is not without cruelty, against whom

¹⁰⁴³ The International Covenant on Civil and Political Rights (ICCPR), Article 19 states that:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

a) for respect of the reputation or rights of others

b) for the protection of national security or of public order, or of public health or morals."

¹⁰⁴⁴ General Comment no. 34 by the Committee on Human Rights 2011, para. 9, via:

<http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access February 1, 2017)

¹⁰⁴⁵ United States Commission on International Religious Freedom, *The Dangerous Idea of Protecting Religions from "Defamation": A Threat to Universal Human Rights Standards*, p. 5, 2009

¹⁰⁴⁶ Brett G. Scharffs (2013): *International Law and the Defamation of Religious Conundrum*, *The Review of Faith & International Affairs*, 11:1, 66-75

targeted by the expression.¹⁰⁴⁷ According to Joint Declaration on Defamation of Religion, and Anti-Terrorism and Anti-Extremism Legislation, the Special Rapporteurs stressed that "The concept of 'defamation of religions' does not accord with international standards regarding defamation, which refer to the protection of reputation of individuals, while religions, like all other beliefs, cannot be said to have a reputation of its own."¹⁰⁴⁸ The joint declaration 'also 'considered that "Restrictions on freedom of expression should be limited in scope to the protection of overriding individual rights and social interests, and should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones."¹⁰⁴⁹ Supporters of the first direction, illogically, interpreted restrictions on freedom of expression. They believed the defamation of religions is different from defamation of individuals.¹⁰⁵⁰ Article 20 of the ICCPR did not specify the type of targeted by expression, but it stipulated that "any advocacy of national, racial or religious hatred ..."¹⁰⁵¹

This joint declaration, at the end, confined the restriction that may impose on the freedom to criticize religions in order to "prevent intolerance" that come "in scope to advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence."¹⁰⁵² In order to respond to this misinterpretation, when the defamation regarding Semitism or Christians, for example, they refuse it under the principle of racial discrimination on the basis of religion. While they accept, in a contradiction of terms, the defamation of Islam or Islamophobia on the basis of freedom of expression.¹⁰⁵³ Also, they argue that defamation of religions only be restricted

¹⁰⁴⁷ Silvia Angeletti, Freedom of Religion, Freedom of Expression and the United Nations: Recognizing Values and Rights in the "Defamation of Religions" Discourse, p. 13-17, This Paper was Presented at the International Seminar Religious Freedom and Religious Expression: Conflicts and Solutions, Held at the Law Faculty, Complutense University, Madrid, 17-18 November 2011. via:

http://www.statoechiense.it/images/stories/2012.10/angeletti_freedomm.pdf (Last access March 4, 2017)

¹⁰⁴⁸ Joint Declaration on Defamation of Religion, and Anti-Terrorism and Anti-Extremism Legislation, The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information, Having met in Athens on 9 December 2008, under the auspices of ARTICLE 19, Global Campaign for Free Expression, via:

<http://www.osce.org/fom/35639?download=true> (Last access March 4, 2017)

¹⁰⁴⁹ Ibid

¹⁰⁵⁰ Matt Cherry and Roy Brown, Speaking Freely About Religion: Religious Freedom, Defamation and Blasphemy, p. 9, International Humanist and Ethical Union, United Kingdom- London 2009.

¹⁰⁵¹ The International Covenant on Civil and Political Rights (ICCPR), Article 20.

¹⁰⁵² Joint Declaration on Defamation of Religion, and Anti-Terrorism and Anti-Extremism Legislation, via:

<http://www.osce.org/fom/35639?download=true> (Last access March 4, 2017)

¹⁰⁵³ Brett G. Scharffs (2013): International Law and the Defamation of Religious Conundrum, The Review of Faith & International Affairs, 11:1, 66-75

when it leads to actual crimes. Do they await a new world holocaust before they criminalize defamation of religions? In fact, the same mechanism that leads hatred against Jews underlies today's hostility and hatred against Muslims.¹⁰⁵⁴

This joint declaration is consistent with the UN Human Rights Committee (HRC) - General comment no. 34 on Article 19 of the ICCPR concerning freedoms of opinion and expression. The comment no. 34 stated that it is not impermissible for any law to prohibit any type of "displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant."¹⁰⁵⁵ It stated, also, that it is not impermissible for any law "to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith."¹⁰⁵⁶ Obviously, the interpretation of the HRC considered that the criticism of religions and religious leaders and expressing of opinions on religious issues an integral part of freedom of expression, which cannot be restricted outside the scope of the restrictions set forth in paragraph 3 of Article 19 of the ICCPR. The defamation of religions, including Islamophobia, leads to hate crimes, and generates fears and feelings of defamation, marginalization, exclusion and rejection.¹⁰⁵⁷ Thus, this trend does not rise to be logical or acceptable, but it is a wrong interpretation and contrary to the provisions and standards of international human rights law, as will be discussed in the second direction.

The second direction sees criticism of religions, and showing a lack of respect for religions is a type of prohibited expression by international law, because this criticism would promote hatred and hostility on the basis of religion.¹⁰⁵⁸ The supporters of this direction consider that defamation of religions is one of the exceptions to the freedom of expression set out in Article 20, which states that: "Any advocacy of national, racial or religious hatred that constitutes incitement to

¹⁰⁵⁴ Alberto Spektorowski, *Anti-semitism and Islamophobia: Two Faces of Discrimination?*, p. 17, the European Union's Seventh Framework Programme (FP7/2007-2013), 2016.

¹⁰⁵⁵ Human Rights Committee, 102nd session, Geneva, 11-29 July 2011, General comment No. 34 on Article 19: Freedom of opinion and expression, via: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access March 4, 2017)

¹⁰⁵⁶ Ibid

¹⁰⁵⁷ Temperman, J. (2010). Protection against Religious Hatred Under the United Nations ICCPR and the European Convention System, p. 215-223, via: <http://hdl.handle.net/1765/88797> (Last access March 4, 2017)

¹⁰⁵⁸ Brett G. Scharffs (2013): *International Law and the Defamation of Religious Conundrum*, *The Review of Faith & International Affairs*, 11:1, 66-75

discrimination, hostility or violence shall be prohibited by law"¹⁰⁵⁹ The Human Rights Commission (HRC), in its resolution 1999/82, considered that defamation of religions falls within the exceptions of freedom of expression set forth in the second paragraph of Article 20 of ICCPR. The HRC emphasized "that discrimination against human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations"¹⁰⁶⁰ Also, It expressed its concern "at negative stereotyping of religions", and referred clearly that "Islam is frequently and wrongly associated with human rights violations and with terrorism."¹⁰⁶¹ In addition, it concluded "any role in which the print, audio-visual or electronic media or any other means is used to incite acts of violence, xenophobia or related intolerance and discrimination towards Islam and any other religion"¹⁰⁶² Therefore, it urged all States, within their national legal framework, in conformity with international human rights instruments to take all appropriate measures to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance, including attacks on religious places, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief.

The same trend has emerged in the subsequent decision of the Human Rights Council, at its 10th session in 2009. The council Stressed "that defamation of religions is a serious affront to human dignity leading to a restriction on the freedom of religion of their adherents and incitement to religious hatred and violence"¹⁰⁶³. It, also, focused on some potential impacts of defamation of religions and incitement to religious hatred. It "could lead to social disharmony and violations of human rights"¹⁰⁶⁴. The efforts to address religious discrimination need to confront a twofold reality. On the one hand, there is the specificity and singularity of each of its forms, such as Islamophobia, anti-Semitism, Christianophobia, in terms of their theological, cultural, historical and geographical uniqueness. On the other hand, one should recognize the universality of their

¹⁰⁵⁹ The International Covenant on Civil and Political Rights (ICCPR), Article 20

¹⁰⁶⁰ Commission on Human Rights Resolution 1999/82 on Defamation of Religions, via: ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1999-82.doc (Last access March 4, 2017)

¹⁰⁶¹ Ibid

¹⁰⁶² Ibid

¹⁰⁶³ Human Rights Council, Tenth Session 2009, Resolution 10/22. Combating Defamation of Religions, via: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_22.pdf (Last access March 4, 2017)

¹⁰⁶⁴ Ibid.

underlying causes and the need to promote all efforts to combat these phobias and all forms of discrimination.¹⁰⁶⁵

In addition, defamation of religions, in the context of the fight against terrorism, leads to the highest number of negative effects that contribute to the denial of basic rights and freedoms of target groups or follower of religions, especially with regard excluding them to exercise their religious, economic and social rights. The General Policy Recommendation No. 8 on Combating Racism while Fighting Terrorism (CRI 2004 26) notes that “As a result of the fight against terrorism engaged since the events of September the eleventh, 2001, certain groups of persons, notably Arabs, Jews, Muslims, certain asylum seekers, refugees, and immigrants, certain visible minorities and persons perceived as belonging to such groups, have become particularly vulnerable to racism and/or to racial discrimination across many spheres of public life, including education, employment, housing, access to goods and services, access to public places, and freedom of movement.”¹⁰⁶⁶

The International law protects the freedom to criticize religion or ideology, or political or religious leaders without invitation to hatred and hostility. In contrast, it criminalizes any type of defamation of religions that leads to religious hatred. Thus, the Human Rights Council, at its 10th session in 2009, stressed that States shall take measures to ensure "effectively combat defamation of all religions and incitement to religious hatred in general and against Islam and Muslims in particular."¹⁰⁶⁷ It is clear that Muslim communities are subject to prejudice, which may manifest itself in different guises, in particular through negative general attitudes but also to varying degrees, through discriminatory acts and through violence and harassment.¹⁰⁶⁸ In fact, the disrespectful drawings about the Prophet, Peace Be Upon Him, is a form of defamation of religions. The Secretaries-General of the UN, the OIC, and the League of Arab States issued a

¹⁰⁶⁵ United Nation - General Assembly - Human Rights Council, Sixth session, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights ,21 August 2007, p. 16

¹⁰⁶⁶ Ibid, p. 25, Quoting: EUMC Report , pp. 62-63

¹⁰⁶⁷ Human Rights Council, Tenth Session 2009, Resolution 10/22. Combating defamation of religions, via: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_22.pdf (Last access March 4, 2017)

¹⁰⁶⁸ ECRI General Policy Recommendation No. 5 on Combating Intolerance and Discrimination Against Muslims, Adopted on 03-16-2000, European Commission against Racism and Intolerance (ECRI) Council of Europe, via: <file:///C:/Users/rakan/Downloads/ECRI%20Recommendation%2005%20en.pdf> (Last access March 4, 2017)

joint statement on “rights to freedom of expression, peaceful protest,” in Doha, Qatar, on 25 February 2006 as a response to the disrespectful drawings about the Prophet, Peace Be Upon Him, “...the cartoons which were published were offensive – not only to the minority of violent extremists, but to the great majority of people of Islamic faith who reject violence”¹⁰⁶⁹

6. 3. 5. Analysis of Certain Expressions Issued by Islamophobia Supporters Against Muslims and Islam from a Traditional Islamic Perspective

This chapter previously cited and analyzed certain Islamophobic speech. Here are other samples of hate speech against Islam and its followers in different contexts and contents. This section aims to analyze these expressions through only the definition and elements of hate speech from a traditional Islamic perspective, which has been deduced in chapter 3.

6. 3. 5. 0. Samples of Expressions Issued by Islamophobia Supporters

1. American State Republican John Bennett spoke to KW TV News 9 in order to present his view that all Muslims are killers. He said, “I’m trying to educate people on Islam. And if they’re Muslims Americans and they subscribe to Islam, then they’re just as bad as ISIS, that’s overseas doing what they’re doing under tutelage of Islam.”¹⁰⁷⁰ He also described Muslims as those who want to destroy Western civilization. He said: “Their goal is the destruction of Western civilization from within.”¹⁰⁷¹ He also said, “This is a cancer in our nation that needs to be cut out.”¹⁰⁷²
2. The insulting caricatures of Prophet Muhammad by at least 17 Danish newspapers, which announced that such work was categorized as a form of freedom of

¹⁰⁶⁹ The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 19

¹⁰⁷⁰ YouTube video: Oklahoma GOP Lawmaker Says American Muslims who Subscribe to Islam are Just as Bad as ISIS, Published on 09-17-2014

¹⁰⁷¹ Bob Pitt, Oklahoma: Republican Politician Say Islam is Cancer in our Nation that Need to be Cut out, Islamophobia Watch Documenting anti-Muslim bigotry

¹⁰⁷² Ibid

expression.¹⁰⁷³ In addition, the Danish authorities considered the drawers not guilty since there was not any hard evidence against them.¹⁰⁷⁴

3. “Innocence of Muslims” film. This film was published on YouTube in July 2012, and was produced by Nakoula Basseley Nokoula. Its title was “Desert Warrior.” It was reported that the script was initially “about tribal battles prompted by the arrival of a comet on Earth.”¹⁰⁷⁵ This film is a deliberate attempt to incite and provoke Muslim sentiments around the world. While violent reactions to the film were condemned by all, including the Organization of Islamic Cooperation's prominent figures, world leaders unanimously condemned the film as well.¹⁰⁷⁶
4. Austria’s Freedom Party (FP) is calling for a ban on burqas. “Freedom Party spokeswoman Carmen Garte Igruber said that in the full-face “wide conservative circle of Islamic Immigration Society,” the opinion prevails that women are second-class citizens. “One of the many instruments for oppressing women is the burqa,” she added.¹⁰⁷⁷ In the same context, “Submission” was a movie written and filmed by Ayaan Hirsi Ali and was produced by the Hollander movie producer Theo Van Gogh in 2004. The film reflects that Muslim women are oppressed in Islamic cultures. It focuses on three verses of the Quran that painted on women’s bodies.¹⁰⁷⁸

6. 3. 5. 1. Analysis of Expressions Issued by Islamophobia Advocates

Before getting more involved in the analysis of the hate speech, it is important to present an overview of the forms and promoters of the speech. Forms of the above speeches embodied into 1- T.V. releases, such as the Speech of American State Republican John Bennett to KW TV News 9, 2- Caricatures, such as the insulting caricatures of Prophet Muhammad (peace be upon him) by

¹⁰⁷³ The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 21

¹⁰⁷⁴ Ibid

¹⁰⁷⁵ Nakoula Basseley Nakoula, Innocence of Muslims, To watch full film, visit this link: <https://www.youtube.com/watch?v=tv7ONKS9DYw> (Last access March 3, 2017)

¹⁰⁷⁶ The OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012 , p. 14

¹⁰⁷⁷ Bob Pitt, ECHR Ruling Inspires FPO Proposal for ‘burq’ Ban , Islamophobia Watch Documenting anti-Muslim bigotry (2014)

¹⁰⁷⁸ Submission Film (2004), Director: Theo van Gogh, Producers and Screenplay: Theo van Gogh, Ayaan Hirsi Ali.

at least 17 Danish newspapers, 3- Films, such as the film “Desert Warrior.” and 4- Official Statement, such as the statement of Freedom Party representative.

According to traditional Islamic Law, hate speech is an independent crime¹⁰⁷⁹; therefore, it is not required to examine the state of the speech source or its location, whether it is formal and effective or not. Also there is no need to investigate its impact or the place and means of its release. Likewise, the definition does not take into consideration whether the source of discourse is an individual, such as American State Republican John Bennett's speech, cartoonists, groups such as newspapers' officials who allowed the publication of the insulting caricatures, or the cast of the insulting film of “Desert Warrior” It also includes the releases by the political and religious trends against hijab. If a speech is issued by a person or association and it contains the fundamental elements, which are: content, intent according to the context, offense as an inevitable result, or greater effects, it is classified as hate speech. To know whether these Islamophobia supporters' speech is hate speech or not, from an Islamic law point of view, they should be analyzed according to the following basic elements of the definition of hate speech.

The contents of Islamophobic speeches depend on historical and cultural implications against Muslims, especially in relation to the Crusades and colonial periods.¹⁰⁸⁰ In addition, they include speech about racism, basing their speech on the fact that Western civilization cannot accept Islamic civilization and beliefs.¹⁰⁸¹ The speeches also depend on some wrong ideas about Muslims, mainly using some terrorist groups' actions as representation of Islam as a religion.¹⁰⁸² It is worth mentioning that the content of these speeches generally shows the speakers' ignorance about Islam. They always seem to categorize Islam and Muslims as the true threat to Europe and the USA. Here, the Islamophobic speeches violate three of the five Islamic constants: The Islamic creed, the Prophet (peace be upon him), and Islamic rituals, and great values. Such speech also violates the

¹⁰⁷⁹ Abdul Qadir Odeh, *Comparison between the Islamic Criminal Law and Positive Law*, Vol. 1, p. 367-377, Lebanon, Beirut: Dar Al Arab Book for Publishing and Printing.

¹⁰⁸⁰ S.Sayyid, S. and Abdoolkarim Vakil, *Thinking Through Islamophobia*, p. 23-44, New York: Columbia University Press 2010.

¹⁰⁸¹ John L. Esposito and Ibrahim Kalin, eds. *Islamophobia: The Challenge of Pluralism in the 21st Century*, p. 3-20, New York: Oxford University Press, 2011.

¹⁰⁸² Ibid

concept of respecting revealed religions; they also violate three of mankind's basic rights: the rights for life, religion, and free thought.

The content of Islamophobic speeches violated the Islamic belief in prophethood through the insulting caricatures, books, and brochures. The Quranic texts are explicit in criminalizing the ridicule or abuse of the Prophet, peace be upon him, in any form of words and deeds. According to the Holy Quran, Allah says: "Those who annoy Allah and His messenger - Allah has cursed them in this World and in the Hereafter, and has prepared for them a humiliating Punishment."¹⁰⁸³ Some of the insulting caricatures displayed the Prophet (peace be upon him) as a terrorist holding a bomb as a newspaper (Danish newspaper-poster) published this poster on the 3rd of September, 2005. There was also a series of insulting caricatures, which violate one of the constants of the Islamic creed: the obligation to respect the Prophet (peace be upon him), who is considered the highest religious symbol and referent in the Islamic religion. The editors working at the newspapers considered such drawings as a form of freedom of expression. That is, of course, unacceptable because it insults the greatest figure in Islamic history. Freedom of expression is only accepted when it aims at advancing and developing humanity; when it serves the human race. The hateful bias against the Prophet Muhammad (peace be upon him) is the aim behind these cartoons.

In April 2003, Jyllands-Posten, the Danish newspaper that first published the cartoons of the prophet Muhammad (peace be upon him), rejected to publish a series of unsolicited cartoons of Jesus Christ, that submitted by Danish illustrator Christoffer Zieler, on the grounds that they could be offensive to readers and they will provoke an outcry.¹⁰⁸⁴ After 3 years, the same editor submitted the cartoons of the prophet Muhammad (peace be upon him) to the same newspaper. This newspaper approved to publish theses cartoons without taken into consideration feelings of Muslim readers and an outcry that would ensue. The Danish newspaper argued that the publication of these cartoons fell under the right to freedom of expression. In fact, any form of 'freedom of expression' that leads to hostility and the spread of hatred is unacceptable and is illegal by Islamic Law. In fact, Islamic regulations forbid the cursing of and disparaging any prophet. Believing in

¹⁰⁸³ The Quran, verse (33:57). See, also, Mohsen Kadivar, *Apostasy, Blasphemy, & Religious Freedom in Islam*, p. 323, Publisher: Official Website of Mohsen Kadivar 2014

¹⁰⁸⁴ The Guardian, Danish Paper Rejected Jesus Cartoons, First Published on 02-06-2006, via: <https://www.theguardian.com/media/2006/feb/06/pressandpublishing.politics> (Last access March 3, 2017)

all prophets is one of the basic tenants in Islam. Therefore, the content of such books, caricatures, and brochures has violated one of the Islamic constants.

Islam has called for decency for both women and men. The outer garment is one of the religious commitments that leads to the achievement of such a principle; therefore, it is a must to abide by it.¹⁰⁸⁵ Women must wear the hijab since it is a ritual, similar to any other Islamic ritual. Wearing hijab by Muslim women is a religious commitment, but the way to wear the hijab is the matter of contention among the Muslim scholars. The first side sees that the hijab consists of a scarf that covers the head, the neck and the bosom¹⁰⁸⁶, while the other side considers that "the Islamic dress code for women does not only consists of a scarf that covers the head, the neck and the bosom, it also includes the overall dress that should be long and loose."¹⁰⁸⁷ Every Muslim woman must wear a hijab, but they have the right to choose how to dress according to their conviction with evidence of each direction. Thus, the world should realize that hijab is a religious commitment that must remain respectable. Even though opinions differ on how to wear it, but the hijab, in essence, is a religious duty of every Muslim woman. All hate expressions against Muslim women's hijab such as the movie "Submission" violates one of the Islamic rituals. It is worth mentioning that if wearing hijab were only a social norm, it would still be unacceptable to make fun of it or spread hate speech against women because of it. In fact it is far worse because it is not a social norm, rather a religious ritual.

There is an argument that, hijab is a threat to security on the basis that some criminals have used hijab as a tool to implement their illegal activities.¹⁰⁸⁸ In fact, they are portraying criminal acts as if they've never been committed except with hijab. Criminals commit thefts and criminal acts with a whole range of tactics that conceal their identities, such as wigs and face masks. In order to maintain national security, governments should develop reasonable strategies such as

¹⁰⁸⁵ Khalid Al-hamed, The Provisions of Hijab, Islamic Research Journal, Vol. 85, p. 298, The General Presidency of Scholarly Research and Ifta. Saudi Arabia- Riyadh

¹⁰⁸⁶ Ibid, p. 328.

¹⁰⁸⁷ Al-Islam.org, The Quran and Hijab, via: https://www.al-islam.org/hijab-muslim-womens-dress-islamic-or-cultural-sayyid-muhammad-rizvi/quran-and-hijab#f_a99fd2fd_1 (Last access December 30, 2016)

¹⁰⁸⁸ Tawfik Hamid, A Strategic Plan to Defeat Radical Islam, p. 77, Countering Violent Extremism: Scientific Methods & Strategies, Air Force Research Laboratory, Wright-Patterson AFB, OH, 45433 (2011). Tawfik said: "the hijab contribute to the idea of passive terrorism."

private rooms to inspect women, rather than blame the Muslims and their culture on the hijab¹⁰⁸⁹. There are no excuses for violating one of the Islamic constants under the cover of 'freedom of expression.' Such an argument is unacceptable since the result of this 'freedom of expression' is hate speech.

Islamophobic speeches, such as the speech of John Bennett, also violate great Islamic values by publishing incorrect information about Islam, alleging that it is the religion of terrorism, classifying it as a religion that goes against human rights and threatens civilization from extinction, and belittling Muslim refugees.¹⁰⁹⁰ All these different forms of speech violate the principles of honesty and mutual respect. Islam, the true religion, accepts others' views and has co-existed with many different cultures throughout history. Islam was the link between civilizations. Islamic countries are, in fact, the victims of many terrorist attacks. Such accusations clearly violate the concepts of honesty and respect. In addition, the claims included in the speech were not based on true information but on mere rumors based on biased and discriminating objectives against Muslims. In order to maintain the virtue of honesty, Islamic law rejects spreading rumors and necessitates making sure before spreading any news because the lack of credibility in expression may cause to a lot of damage to the community, including the spread of hatred based on spreading false information.¹⁰⁹¹

The content of the speech violates the concept of mutual respect of religions, which is protected by Islamic Law. Most speech' contents are against Islam as a religion, (such as Bennett's saying, "This (Islam) is a cancer in our nation that needs to be cut out.") against one of its significant symbols (such as the Prophet peace be upon him), or against one of the Islamic rituals (such as hijab). This is, of course, a clear violation of the right to follow the regulations of Islam. Muslims form a huge percentage of the world's population. Such violation is definitely not categorized as freedom of expression. It has become a means to harm and disparage Islam as a religion. The reason behind that is others should respect the constants and rituals of Islam because

¹⁰⁸⁹ Ali Muhammad Bhat, Freedom of expression from the Islamic perspective, Journal of Media and Communication Studies, p. 75, India, 2014

¹⁰⁹⁰ T. W. Arnold, The Preaching of Islam: A History of the Propagation of the Muslim Faith, p. 300- 301, London Constable & Company Ltd, Second Edition: Revised and Enlarged 1913.

¹⁰⁹¹ Firas Abdul Jalil, Freedom of expression in the Holy Quran, p. 174, Journal of Anbar University of the Islamic Sciences, Iraq 2009. Also, according to the Quran, the verse (49:6) states: "O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest y harm people unwittingly and afterwards become full of repentance for what ye have done."

Islam forbids any offense against any revealed religion. It orders that Muslims' open dialogues and produce arguments that are based on the Holy Quran. The Quranic verse stated: "Invite (all) to the Way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious."¹⁰⁹²¹⁰⁹³ Also, another verse stated: "And dispute ye not with the people of book, except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury)."¹⁰⁹⁴

Above samples of Islamophobic speech violate three basic human rights from traditional Islamic law. First, they violate Muslims' right to exercise their religion. Muslim women are prohibited from wearing the outfit that was appointed to them by their religion; Muslim refugees are considered dangerous to Western societies. Muslim minorities are categorized as destructive people, seeking the destruction of civilizations. Having all these ideas inserted in speeches deprives Muslims from protecting their religious rights, making such contents paradoxical and against basic religious rights that are guaranteed and protected by Islamic Law.¹⁰⁹⁵ Second, the content of such speech violates the Muslims' rights to live a dignified life, especially when it comes to the lives of Muslim minorities. The speech categorize Muslims as a threat that "must be eradicated" making Muslims unworthy of living. This is opposed by Islam since it considers enjoying a dignified life a right for all people. According to the Quran, the verse stated "We have honoured the sons of Adam."¹⁰⁹⁶ Third, the content of the speech is harmful to Muslims since it considers Muslims as "devilish creatures" and describes them as a "cancer that must be terminated". The speech is also disrespectful to important Islamic figures; therefore, it is clear that they refuse Muslims' expression of thoughts and visions. Since Islamophobic advocates and groups categorize Muslims as the enemy, it would be impossible for them to give Muslims the chance to express their ideas, and that in itself is a clear violation of the right to protect one's ideology as guaranteed by Islamic Law. In summary, Speech based on Islamophobia have greatly and clearly violated the belief in prophethood, Islamic rituals, and great values, which are considered three of the five Islamic

¹⁰⁹² Maher Holi, Freedom of expression and respect of religions and sanctities, p. 5- 8, Islamic University in Gaza, Palestine 2008. See, also, Abdullah Alturki, Human Rights in Islam, p. 15-25, The Ministry of Islamic Endowments& Da'awa & Guidance Affairs, Riyadh, Saudi Arabia

¹⁰⁹³ The Quran, verse (16:125).

¹⁰⁹⁴ The Quran, verse (29:46).

¹⁰⁹⁵ Mohammed Khader, Freedom in Islam, p. 27-30, Dar Al-Eatsam for Printing, Publishing and Distribution, Egypt-Cairo.

¹⁰⁹⁶ The Quran, verse (17:70).

constants. They also violate the principle of mutual respect of religions; and the three basic human rights: protection of religion, life, and thinking.

In order to identify the intentions of the promoters of Islamophobia, the contexts of their speech must be analyzed. Generally, all of the speech based on Islamophobia were delivered in contexts of hatred. They were trying to show Muslims as a danger and threat to Western societies. They also presented Islam as a religion that calls for hatred. As a result, recipients were encouraged to hate the followers of such religion. In the Islamophobic speeches, Muslims were described as following:

“Their goal is the destruction of Western civilization from within.”

“This is a cancer in our nation that needs to be cut out.”

“They’re just as bad as ISIS.”

It is clear that the promoters of this type of speech intentionally wants to spread hatred of Muslims. A natural result of the speech would be a deep-rooted hatred in the hearts of the recipients, making it easy for them to form hostilities against Muslims. In addition, incitement is clearly shown in the analyzed speech. Incitement has also appeared through calling Muslims bad names that cannot be forgotten by the recipients, creating an enemy of the latter to the first, and making the recipients believe that Muslims cannot be lived with and must be either killed or expelled. Also, discrimination based on religious and cultural beliefs is another context of this speech. Bennett described Muslims as who want to destroy Western civilization. Moreover, the focus on the history of Muslims wars against others in their speech incites the audiences against Muslims and describes them as an enemy. Furthermore, the Islamophobic brand of speech always seems to mock Islam; this is clearly shown in the caricatures. Therefore, these contexts are the most common in the Islamophobic speech. This stresses the fact that the speech is intended to be hate speech.

According to the definition of hate speech from traditional Islamic law, if any speech causes any abuse to others, it is considered as hate rhetoric. All Islamophobic speech clearly and directly offends Muslims, especially the minorities. Although abuse to others is enough of an argument to illegalize such discourse and classify it as hate speech. Other greater impacts have resulted from

different hate crimes. Some crimes are related to mosques, such as throwing firebombs at them¹⁰⁹⁷, desecrating them with graffiti¹⁰⁹⁸. Also, this type of speech contributed to the other serious hate crimes, such as the Quran burning,¹⁰⁹⁹ the crime of desecrating Muslim graves¹¹⁰⁰, discrimination

¹⁰⁹⁷ Unidentified vandals targeted a makeshift mosque in the neighborhood of Kallithea, southern Athens, early on 15 May 2011, smashing the windows before dousing the interior with gasoline and setting it alight. The attack caused significant damage. The arsonists also spray-painted swastika symbols on the walls of the mosque. See the OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012, p. 35

¹⁰⁹⁸ The El-Hijna mosque in Champagnole (Jura) was covered with racist graffiti on the night of 14 May 2011. Slogans included "Death to the Arabs" "France to the French," and Nazi symbols." See the OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012, p. 36. Also, Fascists desecrate Meximieux mosque – The Collectif Centre l'Islamophobie en France reported that the Islamic Cultural Centre at Meximieux in the Rhône-Alpes region of eastern France was defaced by fascists. A Swastika and a Celtic Cross were sprayed on the front of the building. The CCIF notes that this was the fifth desecration of the Meximieux mosque since 2012. Le Progrès added that a number of such far-right symbols had also appeared in l'Ain, Belley, Châtillon-la-Palud and Pérouges. See the OIC Observatory on Islamophobia, 8th OIC Observatory Report on Islamophobia from May 2014 – April 2015, Presented to the 42nd council of foreign ministers, Kuwait City, State of Kuwait on 27-28 May 2015, p. 55

¹⁰⁹⁹ Qurans burned at Dearborn mosque– Several Qurans were burned in front of a mosque at about noon on 10 June in possible connection with anti-Islam Pastor Terry Jones' expected visit to the city on 14 June. The three copies of the Quran were set on fire and left to burn at the curb in front of the Karbalaa Islamic Educational Center. See the OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012, p. 36-37. Also, Quran 'desecrated' in Chorley mosque attack – Local Police said that on 16 April 2011 intruders entered the Dawat Ul Islam Masjid, also known as Chorley Mosque, in Brooke Street, before causing interior damage and damaging various items, including a Quran. Officers added that racially-abusive graffiti was found on walls at the building during the incident. See the OIC Observatory on Islamophobia, 8th OIC Observatory Report on Islamophobia from May 2014 – April 2015, Presented to the 42nd council of foreign ministers, Kuwait City, State of Kuwait on 27-28 May 2015, p. 62.

¹¹⁰⁰ Racist slogans found on Muslim graves in French military cemetery – About 30 Muslim graves had been desecrated in Carcassonne, south-west France. A legal inquiry had been launched to find the perpetrators and punish them. The caretaker of the military cemetery of Saint-Michel de la ville discovered racist and Nazi slogans daubed on the gravestones when he closed up on 17 September 2011. The graves belonged to Muslims killed fighting for France during World War I and were immediately repainted and restored. The graffiti were "really racist" and "particularly disgusting", according to Carcassonne prosecutor Antoine Leroy, who had opened an inquiry into the incident. See the OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012, p. 48. Also, there was widespread outrage in France (06.21.2007) after the discovery in the north of the country that about 50 graves of Muslim soldiers who had died for France over 90 years ago had been desecrated, mainly with Nazi slogans. French officials showed their displeasure over the incident. The incident took place in April 2007. See the OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008, p. 40

against Muslim individuals in the workplace¹¹⁰¹, and incidents related to Hijab.¹¹⁰² After analyzing the Islamophobic discourses, this study has found that the content of that speech has clearly violated the five Islamic constants, and disrespected religious and basic human rights. The intentions of the sources of such discourses were obviously to call for hatred, offense, and hostility. They were also found to incite against Muslims, insult, and discriminate. The results of such discourses were harmful to Islam and Muslims, and had worse implications than being insulting. Thus, such samples of Islamophobic speech are considered as hate speech against Islam from a traditional Islamic perspective.

6. 4. Conclusion

Criticism is considered a form of practicing freedom of expression from an Islamic perspective. Islamic law encourages to exercise criticism under the principle of "the Promotion Virtue and the Prevention of Vice", as known in Arabic (Nasihah and Hisbah). Nasihah and Hisbah refer to the manner in which criticism must be conducted, which is directing people to good and warn them from evil ideas and acts. Saudi Arabia is the only Islamic state which has retained the Hisbah institution, formally known as "The General Presidency of the Promotion of Virtue and the Prevention of Vice", surviving until this day. With the increasing violations of members of this commission through the violation of the right to privacy, and inappropriate

¹¹⁰¹ Muslim waiter suing hotel for being forced to change name badge – A Muslim waiter at a Waldorf Astoria Hotel in New York was forced to change his name badge while working in the hotel. The Moroccan born Mohammed Kotbi, according to the New York Post, stated that after 9/11, he was asked to change his name badge to John and he agreed as he was in a state of shock. The name badge was later changed to Edgar. Kotbi, who had been working in the hotel since December 1984 complained to the hotel management and the reply he got, was 'we don't want to scare our guests with your Islamic identity.' Further, he was told, 'It's better to be Edgar than Mohammed today.' Kotbi had accused the hotel for creating a hostile work environment and is now suing the hotel on charges of religious and racial discrimination. He also alleged in the court documents that he was repeatedly called a terrorist and Al Qaeda boy. See the OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012, p. 66

¹¹⁰² Camden School Bans Muslim Teenager from Taking A-levels because She Wears the Niqab--A Muslim teenager had been barred from starting her A-levels at one of London's top state schools because she wore a full-face veil. The 16-year-old, who had studied at Camden School for Girls for five years, decided to wear traditional Islamic niqab to cover her hair and face when she returned this month to start in the sixth form. However, the north London school was refusing to allow the girl to begin her 'A' levels if she insisted on wearing the veil. Although the school had no uniform, it said the Niqab went against an appearance policy. See the OIC Observatory on Islamophobia, 8th OIC Observatory Report on Islamophobia from May 2014 – April 2015, Presented to the 42nd council of foreign ministers, Kuwait City, State of Kuwait on 27-28 May 2015, p. 67

criticism, the Saudi government issued a new law for this General Presidency that restricted the functions of the committee members only in directing criticism "with kindness and gentleness.

Traditional Islamic law provides certain conditions to exercise freedom of criticism, such as, adopting fair speech and avoiding wrong speech, preventing laughing at others , prohibiting defamation and sarcasm, rejecting abuse directed to God and the Prophet , behaving well in dialogue among followers of different religious, preventing concealing the truth, ascertaining the truth before speaking, avoiding publishing evil , and expressing only in accordance with the knowledge, not without it .. etc. Also, this law requires that criticism in a knowledgable manner based on evidence and facts. The most prominent example to encourage freedom of criticism by Islam is the multiplicity of legal Islamic schools of thought, either Sunni or Shia that was the main reason for the prosperity and development of Islamic law. However, doctrinal partisanship emerged in the late 8th century, which was caused by the cessation of diligence and the reliance on imitating the imams of doctrines without searching or making sure of the validity of their opinions. This fanaticism contributed to the establishment of the principle of hostility and exclusion of other schools. The current Islamic research centers such as the jurisprudential Council and Al-azhar have played an important role to limit the spread of doctrinal fanaticism among the schools of Islamic law through raising awareness and establishing that criticising is a legitimate right for all.

From traditional Islamic perspective, freedom to criticise the religions within the framework of the objective discussion without abuse or violation others' rights is a right guaranteed and protected. The Substantive discussion means that criticism must be built on full knowledge of the targeted religion, and not based on superficial knowledge. The legal texts that initially give the reader the impression that they call for hatred and hostility must be judged after knowing exactly the context, the purpose for which they were revealed, and the circumstances when and where they were issued.

On an international level, freedom to criticize religions, without threat or discredit or invitation to hatred and hostility, is protected under the freedom of expression under international law. Criticism that comes in the context of hatred, insults or ridicule of religions is a contentious issue; The first side sees that this criticism falls under the freedom of expression which has not accepted any restrictions on the ground that restrictions on freedom of expression should be limited

in scope to the protection of overriding individual rights and social interests, and should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones. This trend does not seem to be logical and acceptable, but it is a wrong interpretation and contrary to the provisions and standards of international human rights law. While the other side emphasizes that this criticism must be subject to restrictions on freedom of expression stipulated in international law on the ground that freedom of criticism is a form of freedom of expression that may be restricted when it comes in the context of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Islamophobic discourses are a form of modern discrimination as declared by Islamic Law; they are also illegal according to International Law. The phenomenon of Islamophobia is not new to this world. History records multiple forms of hate acts against Islam and Muslims. Things started to increase after the attacks of September the eleventh. At a time when the world has turned into a small village, Islamophobic discourse is engraved in people's minds; Islam is seen as dangerous and aggressive and is seen to call for hostility and intolerance. It is portrayed as a religion that is hard to co-exist with peacefully, and that cannot accept different cultures.

In short, although Islamic Law guarantees the freedom of expression, it does not justify Islamophobic hate speech under its umbrella. Such justification would have long-term implications that are negative and harmful to peace and international security. Such discourse spreads hate and is based on religious grounds. The reason behind such discourses is either because of a misunderstanding of the true meaning of Islam or because of political interests. This speech has negative impacts. They lead to hostile actions against Muslims such as burning the Quran, the Islamic Holy Book; destroying mosques; violating graves; and harassing Muslim women for wearing Hijab. Therefore, Islamophobic discourse is a lot like the speech of terrorist and extremist groups that call themselves Islamic, even though their discourses are in fact labeled as hate speech from the perspective of Islamic Law.

Chapter 7: Conclusion & Recommendations

This study is aimed mainly at finding the dividing line between free speech and hate speech in order to reach a precise definition of hate speech from the traditional Islamic perspective. The study has also analyzed, based on the definition, some of the most prominent mainstream speech in the Muslim world at the present time. In addition, the dissertation has addressed extensively the issue of freedom of criticism from the traditional Islamic perspective, including the freedom to criticize religions and whether the speech of Islamophobia falls under that freedom or is classified as hate speech. To understand the interplay, in this law, between the principle of freedom of expression and the limitations and restrictions imposed on it better, this dissertation has provided a comparative study with International law in certain relevant issues. At various points in this study, the research has noted ways in which this speech might be addressed. The most important of these points will be highlighted in this chapter. Finally, some proposals will be made that are intended to provide a basis on which to limit hate speech in an attempt to achieve the aims and objectives stated in chapter I.

Accepting that Muslim communities are an inseparable part of the world, and understanding that most Islamic states are parties to many of the international conventions that criminalize forms of hate speech, this dissertation found that international law has contributed to raising awareness of the concept of hate speech. Moreover, international law has developed a legislative basis on which national legislative bodies can build through Articles 19 and 20 of the ICCPR and Article 4 of the ICERD. The dissertation concluded that International law has struggled to find answers in the difficult balancing exercise of preventing hate speech and of protecting, at the same time, the freedom of expression. Nevertheless, international agencies have identified conditions of restrictions on freedom of expression to take into account, albeit not in an altogether systematic or refined fashion. These conditions are embodied in the following:

1. The restrictions must be provided by law. In the absence of this condition, it must be moved to the application of the following two conditions of restrictions on freedom of expression.
2. They must be necessary to protect based only on a pressing need to limit freedom of expression and in the least restrict it as much as possible.

3. They must be based on a legitimate aim, such as; protection of national security, public order, public health or morals, or respect for the rights and reputations of others.

'Hate speech' remains an ambiguous concept, and there is no universally accepted definition. However, hate speech, as a general concept, includes many forms of negative expression that exceed what is moderate reaching all the way to extreme forms of expression. By analysing relevant articles, the study found that it is possible to conclude five criteria, which are, form, promoter, content, context, and potential impact of speech, to discuss the concept of hate speech, to identify the constraints on freedom of expression and to identify incitement to hate. Thus, after presenting some theories on the definition of hate speech, the dissertation concluded that there is no significant dispute about the three general standards, which are (the form of speech) and (the content of speech) and (the type of promoter of speech). While there is broad disagreement in relationship between two components, which are (intent according to the context of speech) and (the impacts of speech). This dispute contributed to the ambiguity of the definition of hate speech.

This dissertation includes in-depth study and review of legislations of Islamic states such as Saudi Arabia, Egypt, Lebanon, Iran, and the United Arab Emirates. All of these states' legislative documents discuss freedom, rights, and limitations on these rights through their Constitutions, and other laws of Penal, Criminal, Publications, and Cyber Crime. Moreover, they address the attitude of Islamic organizations, such as the Cairo Declaration on Human Rights in Islam, Al-Azhar Document on Renouncing Violence, and the Saudi Council of Senior Scholars towards hate speech and the means used to prevent its spread in the Muslim communities. This dissertation concludes that all these legislative efforts fail to draw the dividing line between freedom of expression and hate speech. These laws prohibited certain contexts, in which hate speech occurs, without developing a clear conceptualization of this speech and the identification of its elements. This ambiguity leaves the door open to interpretation and classification in criminalizing this speech and considering an act to be hate speech on the one hand and regarding it as part of freedom of expression on the other. Although local and regional Islamic legislation has provided an appropriate ground for combating and criminalizing hate speech, even in the case of the Iranian legislation that carries the same attitude legislation in Sunni countries, it is difficult to identify the mechanisms of dealing with hate speech in the absence of an accurate conceptualization of this speech.

There is an exception from the above-mentioned legislation embodied in the UAE Law No. 2 of 2015 in Combating Discrimination and Hatred. This study pointed out that this law is a good example of explaining the concept of hate speech. That is because it discussed all forms and contents of hate speech, as well as the means of its release and the deeds that encourage it. However, after looking deeply at the definition of hate speech mentioned in this law, namely: "Any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups," it is clear that it is not comprehensive, for it is very brief and does not include all of the important aspects related to the discourse of hatred. For instance, it does not mention the contents, forms, results, element of intention, or direct contact between speech and potential effect. Although the definition itself is not able to provide an integral concept of hate speech, the sum of the articles of this law gives a perfect concept of it from the perspective of Islamic law.

The dissertation concludes that Islamic discourse must not be defined according to those who issue hate speech; rather, it must be defined through the perspective of Islamic law. Accordingly, a speech can only be classified as an Islamic discourse if three basic standards exist: First, the Islamic discourse derives from an Islamic referential framework that is embodied in the primary and secondary sources of Islamic law. Second, it agrees with the immutable constants of the Islamic religion and sublime moral values. Third, it expresses the cultural and civilizational identity of the Islamic community. Therefore, this study defines Islamic discourse as discourse that is based on an Islamic reference, whether it was from primary sources or from secondary sources, and holds on to the immutable constants of Islam and sublime moral values, whether this discourse is issued by an official institution, a group, or an individual. In addition, the study concludes that Islamic discourse must be universal, positive, flexible, receptive to the international world, fully assimilating changes and new developments, and addresses all contemporary problems and challenges that arise.

At various places in this study, the research reviews the concept of hate speech throughout Islamic history and concludes that hate speech has a long history in the Islamic world and a prominent role in many of the cultural, political, religious, and social conflicts. The dissertation summarizes six factors that contribute to the spread of hate speech in the current Islamic world, which are: 1. Judging the issues of the contemporary reality from a former perspective and focusing

on the discussion of the extinct ideas; 2. Doctrinal fanaticism; 3. Cultural and intellectual differences; 4. Local and regional conflicts; 5. Ignorance of Islamic religion and its principles and provisions; and 6. Media and Internet exaggeration of the freedom of speech to reach the hostile and hatred discourse.

The study concludes that traditional Islamic law has considered the freedom of expression to be an important fundamental of human rights, it must achieve certain essential objectives, which are the disclosure of truth, the honour of human beings, and fundamental rights. In addition, the freedom of expression is constructed, in essence, on some basic principles, such as, everyone shall have the right to criticize, freedom of religion, and freedom of thought.

The dissertation further concludes, that traditional Islamic law enacted some conditions and limitations on the freedom of expression in order to protect the rights of others and agree with the principles, legal rules, and morals of Islam. Traditional Islamic law is consistent largely with the International and regional mechanisms in the three conditions of restrictions on freedom of expression, which are "provided by law, must be necessary and based on the legitimate aims". As regard with the first condition of the restriction "must be provided by law", traditional Islamic law provides certain contexts, contents, and conditions of expression that must be subject to restrictions, such as, adopting fair speech and avoiding incorrect speech , preventing laughing at others , prohibiting defamation and sarcasm , rejecting abuse directed to God and the Prophet , behaving well in dialogue among followers of different religious , preventing the concealment of the truth , ascertaining the truth before arriving at a decision , refraining from the publication of evil, and expressing (oneself) in accordance with knowledge, not without it etc. Regarding the second condition of the restriction "must be necessary", traditional Islamic law expands on defining the scope of necessary restrictions based on its religious nature on the reverse of international law, which imposes restrictions restrictively and in line with social need. Islamic law consider that a social need of Muslims lies in the full respect of the Islamic constants, and not compromising them. Regarding the last condition of restriction on freedom of expression, which is " must be based on the legitimate aims" the traditional Islamic law restricts any expression that violates fundamental human rights, which are religion, life, wealth and property, thought, and offspring in order to create the perfect life that man can live peacefully.

The dissertation depends on primary sources of Islamic law, which are the Quran and Sunnah, and secondary sources such as consensus, juristic reasoning, preference, and public interest in order to determine elements of hate speech. The study, therefore, concludes by deducing five criteria, which are, form, promoter, content, context, and potential impact of speech, and to discuss the concept of hate speech. Traditional Islamic law does not exclude any form of speech, but emphasizes that "any word or act" should be considered as a speech. The form of speech means the template in which the hate expression is received, whether 'words' or 'acts'. Traditional Islamic law indicates that the form of expression does not confine to the form of the direct speech, but covers all forms of expression, including any action, which supports hate speech, whether in the form of public support, justification, publishing, or helping to spread hatred, falls under a form of hate speech. In addition, the dissertation concludes that hate speech is a separate crime from the perspective of Islamic law; therefore, it is not necessary to examine the state of the speech source or its location, whether it is formal and effective or not. Also, there is no need to investigate its impact or the place and means of its release. Likewise, traditional Islamic law does not take into consideration whether the issuer of the discourse is an individual or a group. If a speech is issued by a person or an association and it contains the fundamental elements of content, intent according to the context, and abuse as an inevitable result, or higher effects, it is classified as hate speech.

The study concluded that even to know whether a speech is an example of hate speech or not from an Islamic law point of view, it should be analyzed according to the basic elements, which are the content, context, and effect of the speech. Traditional Islamic law provides specific topics and fixed principles under the element of "the content of the speech," which are any violation for the five constants of Islam, the divinely-revealed religions, the Islamic principles of justice and equality, or basic humanitarian rights. Moreover, Traditional Islamic law addresses multiple contexts that determine the intent of the promoter of the speech. Such as a call to hatred, violence, or hostility. Whereas in the context of incitement; ridicule, derogation, challenge, insult, or cursing. Meanwhile in the context of discrimination, on the basis of; color, race, sex, or language. Additionally in the context of; religious, cultural, ideological, political, social, or economic affiliations; or in any context characterized by hostility.

The dissertation concludes that mere abuse, from traditional Islamic law, is what determines whether a word or act should be categorized as hate speech. Thus, it does not require

the existence of a direct connection between the speech and the threat to others in considering the speech hateful based on the basis that hate speech is an independent crime. In the case of the existence of a direct connection between the expression and the threat, the offence of taking part in the criminal act is added to the crime of incitement. While international law adopts that, a direct connection between expression and the threat to the rights of others is necessary to classify it as hate speech. It is worth knowing that, a single speech might address more than one content area of hate speech, may involve more than one context of hate speech, and may result in many potential effects.

Accordingly, this study resulted in a definition of hate speech from the traditional Islamic perspective as: “Any word or act by an individual or group in any way dealing with topics that fall under the five constants of the Islamic religion, the divinely-revealed religions, the Islamic principles of justice and equality, or the basic humanitarian rights; and that comes secretly and publicly in the context of calling or inciting to any form of hatred, violence, or racial discrimination, or any context characterized by hostility. This expression typically results in abuse to others in the very least, or any other more severe effects, whether they occurred or did not occur.”

The dissertation chooses certain examples of the most prominent mainstream speech in the Muslim world at the present time. The speech chosen for this study embody the mutual speech between followers of Sunni and Shia doctrines and between supporters of the Egyptian government and supporters of the Muslim Brotherhood Group. In addition, speech were included by the two most prominent terrorist groups, Al-Qaeda and ISIS, which both ascribe themselves to Islam. Accordingly, this study provides a brief account of the history, beliefs, and points of agreement and disagreement between the disputing parties in order to assist the readers to engage fully with the analysis of those types of speech. Therefore, the dissertation determines, according to the definition of hate speech mentioned above, the following results:

1. The Shiite speech cited in this study, which followed Saudi citizen Nimr Al-Nimr's execution, are classified as hate speech from the traditional Islamic perspective, because they violated one of the five Islamic constants through violating two of the values of Islam: violating the principle of respecting others, and honesty, especially through violation of sovereignty of countries. In addition, the intentions of the issuers of the speech were in the

contexts of incitement, calls for hatred and hostility, and calls for violence, ridicule, and insults. The aforementioned speech has done great disservice to others through directly offending Saudi Arabia and the Sunni doctrine, and have contributed to acts of violence that are unacceptable according to Islamic law.

2. The Sunni speech that followed the operation Determined Storm, and which were mentioned previously in this study, is considered hate speech, in accordance to traditional Islamic law; they are not a form of freedom of expression, because their content violated the Islamic constants, including the high Islamic principles, through contravening the values of honesty and respecting others, and, violation of the two main human rights, the right to life and freedom of religion. In addition, the intentions of those making such speech were in the contexts of incitement, hatred, encouraging hostility, calling for violence, abusive, and racially discriminating, according to sectarian affiliations. The Shiite community and minorities were open to abuse as an inevitable result of this type of speech. Furthermore, it caused serious results, which are greater than abuse, such as slandering Shi'ism and its adherents and causing difficulties for coexistence in the future.
3. The speech issued by Al-Qaeda clearly falls under the definition of hate speech from the traditional Islamic perspective. Their contents violated one of the five Islamic constants through violating two of the values of Islam: the principle of respecting others and honesty. They also violated three basic human rights: the right for religion, right for life, and right for thought. In addition, the intentions of the people advocating this speech were in the contexts of incitement, calling for violence, hatred and hostility, and cursing. Moreover, the speech resulted in direct offense to other people whether they were Muslim or non-Muslim communities, especially the United States, which witnessed a number of terrorist attacks such as 9\11.
4. The speech issued by ISIS are classified as hate speech from the traditional Islamic perspective, because they violated one of the five Islamic constants through violating two of the values of Islam: the principle of respecting others and honesty. They also violated two basic human rights: the right for religion and right for life. Also, they violated the principle of freedom of divine religions. The intentions of the authors of the speech were in the contexts of incitement, calling for violence, hatred and hostility, and cursing. Moreover, the speeches resulted in direct offense to others; they frankly offended the

French, the Belgians, the Europeans, and all the countries that joined the coalition against them. Although this offence is enough to classify the speech as hate speech, more serious consequences followed those offenses.

5. The speech of the Muslim Brotherhood Group and its supporters cited in this study are classified as hate speech from the traditional Islamic perspective; the content of their speech violated one of the five Islamic constants through violating one of the values of Islam: the principle of respecting others. It also violated two of the basic human rights, the right for life and religion. In addition, the intentions of the issuers of the speech were in the contexts of incitement, calling for violence, hatred and hostility, and cursing. The aforementioned speech has done great disservice to others; they offended the opposing groups. Other implications of the speech were the repeated terrorist attacks in Sinai.
6. The speech of the Egyptian media who as supporters of government and opponents of the Muslim Brotherhood are considered examples of hate speech from the traditional Islamic perspective; the content of their speech violated one of the five Islamic constants through violating two of the values of Islam: the principle of respecting others and honesty. Also, they violated one of the basic human rights: the right for life. In addition, the intentions of the issuers of the speeches were in the contexts of incitement, calls for violence, calls for hatred and hostility, and cursing. The aforementioned speech has done great disservice to others; they were full of offense towards the Muslim Brotherhood Group. There were greater implications such as the breakup of the Rabaa Al-adawiya protest using military force, the mistreatment of Syrian refugees, and the bad perception of female Syrian refugees.

The dissertation concluded that freedom to criticise the religions within the framework of the objective discussion without abuse or violation rights of others is a right guaranteed and protected by the traditional Islamic law; the criticism, therefore, must be built on full knowledge of targeted religion, and not based on superficial knowledge. The legal texts that initially give the reader the impression that they call for hatred and hostility must be judged after knowing exactly the context, the purpose for which they were issued, and the circumstances when and where they were issued.

The study concluded that freedom to criticize religions without threat or discredit or invitation to hatred and hostility, is protected under freedom of expression under international law.

In contrast, the study concluded that criticism that comes in the context of hatred, insults or ridicule of religions is a contentious issue; The first side sees that this criticism falls under the freedom of expression which has not accepted any restrictions on the grounds that restrictions on freedom of expression should be limited in scope to the protection of overriding individual rights and social interests, and should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones. This trend is not deemed to be logical or acceptable, but it is an ill-judged interpretation and contrary to the provisions and standards of international human rights law. While the other side emphasizes that this criticism must be subject to restrictions on freedom of expression stipulated in international law on the ground that freedom of criticism is a form of freedom of expression that may be restricted when it comes in the context of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

The dissertation concludes that Islamic law rejects widespread hate speech not only among Islamic doctrines and entities, and by terrorist groups who claim to be Muslims against others, but also by non-Muslim individual or groups under the concept of Islamophobia. First of all, the study provided a definition of Islamophobia according to the Organization of Islamic Cooperation as:

a contemporary form of racism, [that] continues to manifest itself through different forms of prejudice and discrimination against Muslims both as individuals and as a community. Taking root in various economic, social, political and cultural considerations, Islamophobia not only contributes to the propagation of negative stereotypes against Islam and its followers, but also leads to more serious human rights violations such as discrimination against Muslims and attacks on their physical integrity, particularly Muslim women who are often more easily identified due to their distinctive attire. (7th OIC Observatory Report, p. 7)

In addition, the study analyzes examples of Islamophobic speech according to the definition of hate speech from the Islamic perspective, concluding that these types of speech are all variants of hate speech, because the content violates three of the five Islamic constants, the Islamic Prophethood creed, the Islamic rituals, and the supreme Islamic values. They also violate the principle of mutual respect of religions, and three of the basic human rights, the right to protect religion, life, and thought. Moreover, the intentions of the makers of the speech were in the contexts of incitement, calling for violence, hatred and hostility, mockery, and discrimination

based on religious and cultural beliefs. Lastly, the aforementioned speech has done a great disservice clearly and directly to the Muslim world, especially minorities. Other impacts have resulted in terrorist attacks against Islamic Mosques, the Quran, Muslim Graves, and discrimination against Muslim individuals in the workplace and against Hijab.

7. 0. Addressing the insufficiency of international, regional and national legislation

On an international level, although international law ensures freedom of expression, it imposes strict constraints on any form of expression that violates other people's rights, harms national security or peace, or violates the right of public health or public morals and customs. However, interpretations issued by the official international organizations such as the Human Rights Council with regard to freedom of expression and hate speech are not sufficient, especially relating to defamation of religious issues. As been stated earlier, criticism of religions is a controversial issue based on the ambiguity of Interpretations on article 20 of the ICCPR. The study found that international law needs to develop further such constraints, and proposes enacting laws that specifically address hate speech. There should be a clear explanation regarding all constraints imposed on freedom of expression. This study therefore recommends that there must be an international covenant that is approved by all countries of the world. Such a covenant must set a clear definition of hate speech, measures for differentiation between freedom of expression and hate speech, and the forms, contents, and implications of hate speech. Although it is difficult to agree on one opinion regarding this proposed covenant, the international community must not stand by in front of hate speech which is spreading rapidly, as well as the suppression of freedoms on the other side under the pretext of combating that speech. Based on the challenges to draw dividing line between freedom of expression and hate speech that have global dimensions, the global impact should play a prominent role to bring the different views by holding several international meetings to discuss the implications of this uncertainty with regard to restrictions of freedom of expression and connect the political and economic interests of the states. Negative effects of this uncertainty on international peace and security should be the focus of attention in the efforts to bring forth views. Explaining the internal and external implications of hate speech in the context of international human rights law is crucial to the identification of its scope and its forms and consequently to the formulation of strategies that ensure global agreement on certain bases from which to contribute in closing the door of justifications depending on interests with

regard to freedom of expression of hate speech. This proposed covenant is important because we are living in a time where hate speech is spreading widely in most countries of the world, including Islamic states that form a huge part of the world population. This is an international problem that must be addressed internationally through the international community, which must set a certain system that defines and condemns all hate speech, and protects, in contrast, freedom of expression.

On the regional level, regarding Islamic regional level, the Organization of Islamic Cooperation played a huge role in the fight against hate speech issued by non-Muslims against Islam and Muslims through the Islamophobia Observatory. However, it did not play any role in facing the hate speeches delivered by some Islamic parties, and terrorist groups that call themselves Muslims. This study therefore recommends that the regional official organizations, especially OIC should develop a regional observatory that aims to issue an annual report on hate speech by Islamic parties, and terrorist groups that call themselves Muslims. These Observatory must play the greatest role in the fight against this hate speech through following up with such speech, showing its harmful results, and calling for international disapproval. In addition, the study suggests that this observatory should establish units and databases that monitor hate speech, investigate complaints about hate speech, and offer legal advice to their victims. Moreover, this observatory should follow analytical and statistical methods regarding hate speech. The challenge is that some of the major Muslim states are considered as the main supporters of the budget of the organization, such as the Arab Gulf states and that may prevent the neutrality of the organization. To ensure that such an observatory is not subject to the influence of certain countries and serve their political and religious will, this proposed observatory should be subject to international observers in coordination with the United Nations. This requirement must be provided for in the agreement on the establishment of the proposed observatory in order to be obliged to all members and guaranteed transparency. Thus, such observatories would reveal any violations coming from any country, official, or unofficial groups.

The lack of efforts against hate speech is not only international or regional failing; it includes aspects of national legislation worldwide. The most prominent examples of the failure to combat hate speech is when there is no explicit legal ban against inciting hatred in different national legislations, or when the national legislations that ban inciting hatred use different concepts that are in disharmony with the International Law articles. On the level of Islamic nations,

there is not one local legislation that governs hate speech rulings, except for that of UAE as mentioned previously, which enacted a law that bans hate speech. This is considered a positive step that should be followed by all countries. Although UAE's law did not identify hate speech as a concept accurately, the rulings of the system included most of the aspects of hate speech. The definition was not comprehensive; however, the law as a whole was. This study suggests that each country must have a law related to hate speech. That law should define hate speech as a concept and should constrain freedom of expression, which must also be defined clearly and accurately. All local legislation must be taken into consideration, whether criminal or civil.

In other words, there should be harmony between protecting freedom of expression and prohibiting hate speech. Countries should guarantee that the local legal frame regarding incitement rulings must continue through a clear indication of article 20 of the ICCPR, "Any call for hatred." Also, the failure to combat hate speech appears if the national legislations that ban inciting hatred have expanded the concepts of such phenomena through adding new constraints regarding freedom of expression, which can lead to dictatorial application of such laws. Countries must accurately identify the basic concepts such as; hatred, discrimination, violence, incitement, and hostility in order to ensure that there is no expansion in the restriction. In addition, some national legislations fail to protect freedom of religion through enacting laws against religious intolerance that forbid protection for different religions at different rates as in some Muslim countries. These laws for defamation of religions must cancel to conform to the international and regional principles for human rights. Countries must approve the international and regional warrants for human rights regarding freedom of expression.

7. 2. Activation of Other Measures to Eliminate Hate Speech

The dissertation concludes that hate speech will not go away through only laws, or international and local punishments. There are other non-legal measures that must be taken into consideration in order to combat hate speech and spread discourses that promote tolerance. Accordingly, the study proposes a comprehensive method to prevent hate speech and incitement through religious, political, cultural, social, educational, and media measures that can be followed.

7. 2. 0. Religious Measures

The dissertation suggests measures that can be followed by religious institutions, clergymen, and others interested, such as renewing religious discourse and engaging in international, inter-religious dialogue. As mentioned in the third chapter, Muslim scientists and thinkers have noticed that the Islamic discourse needs renewal. We also mentioned in different parts of this study that respecting revealed religions is necessary, whether basing such respect on international or Islamic Law.

7. 2. 0. 0. Renewing Religious Discourse

Muslims should renew their discourse through changing the structure of the discourse, and rewriting their methods while maintaining the constants of their beliefs and creeds. Religious discourse can be renewed through improving the scientific and occupational capacity of the author of the speech. This would help in the realization of the need to follow religions without having to be in dispute with others. In order for a religious discourse to be active locally and internationally, it must positively interact with the inputs of the age we are living in, the age of communication and digital revolution. Muslims who deliver religious discourse must not depend in their speech on historical disputes between religions. Each country was established from different religions and from opening up to the world. Therefore, the religious discourse should provide harmony between traditions and modernity. Also, public interests must be considered in the religious discourses.

Muslims must stay away from any discourses that explain the modern reality from a past perspective. They should leave the discussions of ideas that no longer exist since such discussion would lead to hate speech. Renewing the religious discourse may contribute to keeping up with internal and external advancements. In addition, religious discourse must call for peaceful co-existence and mutual respect. Minorities' rights should be respected and minorities must be considered a fundamental part of the society. Ideas of disputes and conspiracies must be disregarded. Religious discourse must seek to protect humans' basic rights, and focus on mutual interests between religions. The discourse should spread the values of tolerance and dialogue with others. Ideas are generally faced with ideas. As for the Islamic religious discourse, the Jum'a khutba (Friday Sermon) is an Islamic speech that is educational opportunity. It is not a platform for disputes or hatred. Friday sermons can play a huge role in the Muslim society if done properly by suitable people. The Friday speech must not spread rumors or be used to attack certain people

or groups. Doing so is against the Islamic ideology. Friday sermons must keep up with Muslim communities' interests, discuss their issues, and suggest solutions without referring to any speeches of incitement. Discourse should help people accept religious debates that are in the form of knowledge based criticism. Moreover, Modern media outlets should be used in a modern method that is understood by modern generations. Conventional media outlets such as religious books and scientific research are no longer as important to people as they were previously.

The Islamic governments should encourage the renewal of religious discourse by incorporating those interested in religious discourse in the developmental and educational programs that contribute to the making of religious discourse more realistic and logical. For example, King Abdullah Foreign Scholarship Program is a positive step that has contributed to support the renewal of religious discourse in Saudi Arabia. Before the scholarship program, the issues related to the Islam and its provisions are discussed in a traditional way that the current generation cannot understand and was an obstacle to the development of Islamic sciences. This traditional way was a cause of making the issues of the Islamic world ambiguous in the eyes of other communities. Today, Saudi Arabia is witnessing a qualitative leap with regard to renewal of religious discourse: Saudi students have started, at various law schools around the world, discussing and criticizing their issues and comparing them with different laws.

7. 2. 0. 1. International Inter-Religious Dialogue

Religion has become a key driver in the arenas of politics and international relations. The world has become more interdependent due to globalization, with increased interaction between different cultures and religions. In addition, many wrong judgments have classified others within certain frames depending on their religious beliefs or political affiliations. At the present time, for example, differences between a Muslim and a Christian and a Jew are of great concern. It is very natural when cultures and religions meet at the dialogue table, hate speech will fade and only the language of dialogue will remain. The study proposes to activate the role of the existing dialogue centers, such as King Abdullah Bin Abdul-Aziz International Centre for Interreligious and Intercultural Dialogue¹¹⁰³. In addition, this study suggests to develop an Islamic regional center

¹¹⁰³ After the ominous events of September 11 and the ensuing world conflict, wise people exercised caution, believing that we who share life on the planet must strive to find what is common between us. Therefore, in June of 2008, King Abdullah bin Abdul-Aziz, the Custodian of the Two Holy Mosques, issued his call for the need to establish a dialogue between the followers of divine religions (Islam, Christianity, and Judaism) to discuss how to

similar to Inter-Religious Dialogue Centers that follow scientific methodologies in the discussions between Sunnis and Shias. The impact of states, which pay for these dialogue centers, on its orientations is an impossible challenge. Therefore, these centers should remain under the United Nations in order allow all the followers of all religions of the various states to participate effectively and impartially. These centers should be established in gradual form; two or three countries or doctrines in the first stage then more in order to discover the obstacles that may arise, and therefore making it easier to process them quickly with a limited number of parties in the dialogue center. Regarding a Sunnis and Shias dialogue center, there should be equal representation of each doctrine in this recommended center in order to ensure that the lack of control of one party over the orientations of this center. These centers would have been better than having hate speech that fails to accomplish the principles of respect or peaceful coexisting; and in fact, which only incite violence. A national institution of dialogue, in the same international and regional approach, should be founded in all countries to spread the culture of dialogue, making it the solution of any problem, not hate speech.

7. 2. 1. Political Measures

Often people draw a picture of people or policies of nations through political statements and attitudes of government officials who are representing their people. The study, therefore, recommends some political measures to prevent hate speech by defining responsibilities of government officials and political leaders through promoting the values of equality and diversity and condemning instances of discrimination or discriminatory rhetoric. A particular responsibility falls on the shoulders of political leaders. Their stances influence public views on intercultural

stop hate speech and the campaigns of mutual hatred and violence before they fester and destroy everyone. The KAICIID Dialogue Centre (King Abdullah Bin Abdul-Aziz International Centre for Interreligious and Intercultural Dialogue) was founded to enable, empower and encourage dialogue among followers of different religions and cultures around the world. Located in Vienna, the Centre is an independent, autonomous, international organization. The Founding States of the Centre (Kingdom of Saudi Arabia, Republic of Austria and Kingdom of Spain) constitute the "Council of Parties" responsible for overseeing the work of the Centre; the Holy See is admitted as a Founding Observer to the Centre." This center is established "in order to foster respect, understanding and cooperation among people, to use dialogue to promote justice, peace and reconciliation and to counteract the abuse of religion to justify oppression, violence and conflict, to promote mutual respect and understanding among followers of different religions and cultures, to promote a responsible way of living the religious and spiritual dimension of individuals and society. . . (to) uphold the principles and values of human life and dignity, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." For more information, visit Website of King Abdullah Bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue via: <http://www.kaiciid.org/en/the-centre/> (Last access March 8, 2017)

issues, potentially tempering or exacerbating tensions. Election campaigns in which political leaders exploit or incite the xenophobic fears and prejudices of the electorate through speeches or slogans often provide the backdrop for hate speech. In response to such expressions of prejudice, non-government organizations (NGOs) can press for the application of political sanctions. The expulsion of political parties from regional political groupings is one potential sanction some NGOs have advocated. Also, the study suggests to adopt legal provisions in states that allow for the withdrawal of public financing for political parties that promote racism.

7. 2. 2. Educational and Social Measures

Education and social affairs institutions play a huge role in creating the attitudes and beliefs of a new generation that does not depend on the old history in dealing with others. There are efforts to make education reach all, because they strongly believe that education is the best way to stop hate speech in the future. Therefore, this dissertation suggests educational measures to limit hate speech through reinforcing the principles of tolerance and mutual acceptance among generations, especially in societies that have a mix of sunni and shia. Through school curricula in primary classes, educational institutions should concentrate on reinforcing the principles of tolerance and mutual acceptance. As a result, a generation could grow up to refuse any discourse that calls for hatred and discrimination. Their role is basically to hold awareness activities that show the great threat such discourses impose on society. They should especially focus on counteracting discourses that call for discrimination based on race, sex, or language, etc. These institutions must reinforce the concept of nationality and put an end to all types of discrimination. They should provide awareness programs about sports fanaticism and how harmful that is. Our world suffers from cultural fanaticism that requires treatment through the spread of awareness among the members of the society in life's different fields. Such educational social institutions can achieve the goal of stopping the spread of hate speech through:

- 1- Concentrating on the role of the family in bringing up children correctly through reinforcing complete disapproval of all types of hatred and reinforcing the concepts of tolerance and mutual acceptance. The family should be entrenched in the minds of generations that adopting a different religion or doctrine does not mean that co-existence with each other is impossible. Educational and societal associations must develop scientific strategies and hold training programs for families that contribute to the prevention of hate speech among generations.

- 2- Spreading awareness regarding sports, how such competitions are honest; how they are not personal or group disputes against the other. There should be the concept that people have the right to belong to a certain sports club; however, belonging to a club does not give a person the right to incite hate against members of a different club.
- 3- Reinforcing the principle of cultural diversity. Such diversity does not grant people the right to hate another person.
- 4- Holding media activities through TV, newspapers, magazines, and social media websites that seek to spread discourses of tolerance; disapproval of extremism; and warning of terrorist groups, stray thoughts and ideas.
- 5- Taking care of youth and working on fixing any social and psychological stress from which young people suffer. Such stress leads those youngsters to getting involved in incitement groups and being affected by hate speech.

7. 2. 3. Measures for the Media

With the huge advancement in the Internet and its becoming the most commonly used means of communication, hate speech and extremism took advantage of great space on multiple websites, especially on social media. The Internet gave those groups the chance to issue hate speech under false names and websites. Such websites could be in one country but directed towards a different one. The internet has the power to cross borders, which is how extremist groups and inciters of hate have utilized websites to spread their hate speech. Electronic devices that support using the internet have become cheaper, making the publishing of incitement and hate speech easier than before. Multiple countries have been unable to face such challenges and difficulties. According to the Simon Wiesenthal Center, there were 8,000 hate websites available online. In recent years, social media websites such as Facebook and Twitter played a great role in spreading hate speech. One of the most significant examples is what happened in the countries of the Arab Spring, and how they were affected by the discourses published on social media websites.¹¹⁰⁴

Many countries tried to impose constraints on online freedom of expression to stop hate speech. They also refused the geographical borders of the Internet and sought to have international

¹¹⁰⁴ Simon Wiesenthal Center, Digital Terrorism and Hate, Los Angeles: SWC, 2008.

agreements to rule the Internet instead of relying only on national laws. However, such efforts failed because some countries provide great protection for freedom of expression that exceeds the limits and allows it to reach the level of hate speech.¹¹⁰⁵ Such differences and controversy in the imposed constraints on online hate speech will help spread such discourses and will contribute to the spread of international disputes. The world has become one community due to the Internet.

¹¹⁰⁵ For example, there is the first amendment of the American constitution that says, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances." See U.S. Constitutional Amendments, via: <http://constitution.findlaw.com/amendments.html> (Last access 21 August 2016)

At the same time, France imposed constraints against freedom of expression that harms others and affects public interests. The French penal code R645-1 says,

"It shall be punished by the fine provided for violations of the fifth class, except for the needs of a film, show, or exhibit including an historical evocation, to wear or to display in public a uniform, insignia, or emblem evoking the uniforms, insignia, or emblems worn or displayed either by the members of an organization declared to be criminal pursuant to Article 9 of the statute of the international military tribunal annexed to the London agreement of August 8, 1945, or by a person found guilty by a French or international court of one or several crimes against humanity provided by Articles 211-1 to 212-3 or provided in law number 64-1326 of December 26, 1964." See Elissa A. Okoniewski, *Yahoo!, Inc. v. LICRA: The French Challenge to Free Expression on the Internet*, Note: 55, p. 306, *American University International Law Review*, 2002, via: <http://wap.tamilnet.com/img/publish/2012/01/FrenchCaseFreeSpeech.pdf> (Last access December 30, 2016)

Based on that, the controversy of the countries regarding online hate speech, racism, and freedom of expression interests placed many countries in direct opposition, and allowed many websites and Internet users to deliver hate speech on a greater scale through operating such websites outside countries that impose constraints on hate speech.

In a case involving Internet Service Provider (ISP) Yahoo, two French student organizations that work on ending anti-peace actions filed a lawsuit against Yahoo for violating the French law that bans selling Nazi products. Yahoo was accused of showing Nazi souvenirs on its auction site. Although Yahoo was established according to the law of Delaware State and although its headquarters was in Santa Clare, the French Court ruled that Yahoo was responsible for the Nazi products. The court also ruled that Yahoo's actions violated the French Criminal Law that bans selling, exchanging, or displaying Nazi items. The court ordered Yahoo to pay a penalty of 10,000 Francs to LICRA. Yahoo objected to the ruling, building its case on the fact that it is situated in the United States of America, not within the regional French borders, and because of the first amendment of the U.S. constitution, this claim was dismissed. See *La Ligue Contre Le Racisme et L'Antisemitisme (LICRA) and Union Des Etudiants Juifs De France (UEJF) v. Yahoo! Inc. and Yahoo France*. English translation available at <http://www.juriscom.net/txt/jurisfr/cti/yauction ns20000522.htm> (Last access March 8, 2017)

After the French court's verdicts were out, Yahoo filed a lawsuit in the US District Court for the Northern District of California in order to receive a judicial verdict that prevents the execution of the French Court's decisions due to the latter's violation of the first amendment of the American constitution. The American court's verdict was that the first amendment of the constitution prevents the French court from the execution of its decision. The court announced, "We should not allow a foreign court order to be used as leverage to quash constitutionally protected speech by denying the United States based target an adjudication of its constitutional rights in federal Court." See *Yahoo, Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme*, et al, 45 F. Supp. 2d 1168, Case No. C-00-21275JF (N.D. Ca., September 24, 2001)

Although the plaintiffs can enforce the French Court decision in France if Yahoo has assets there, but the international measures must be united on issues related to online hate speech, which has the power to cross borders.

Therefore, it should be ruled under one legislation that would protect the rights of everyone, and achieve peace and security for the whole world. Therefore, all countries around the world, and the USA in particular as a large country with a huge population, must participate in the fight against this hideous phenomenon. There should be Internet laws written in an international method that are applicable worldwide. As the Internet makes the world a small village, there should not be any geographical constraints and must be governed by one law. Also, the study proposes that the media must play huge role in preventing hate speech by holding media activities through TV, newspapers, magazines, and social media websites that seek to spread discourses of tolerance; disapproval of extremism; and warning of terrorist groups, stray thoughts, and ideas.

7. 3. Future Studies and Scientific Efforts

The dissertation highlights a number of topics on which further research would be beneficial. This study focused mainly on developing a precise definition on hate speech from the Islamic perspective, but the issue of how the law could be designed in accordance with the provisions and principles of Islamic law and how it could be enforced efficiently by Islamic states, based on their full and partial application of Islamic law, still needs independent research. A number of additional areas for further research have been highlighted by the studies undertaken for this thesis. These include the further investigation of criminal sanctions on hate speech under Islamic law. This would help to give a more comprehensive view of the real position of Islamic law on issues relating to hate speech. Future studies and scientific efforts should be done toward answering these questions in order to highlight and answer them adequately.

In the end, I hope this study will help future researchers understand the position of Islamic law on hate speech, and pave the way for them to continue discussion of these issues. Most of all, I hope this dissertation will contribute to peaceful coexistence based on dialogue, in the place of perpetual conflict based on hate speech.

Bibliography

A Message to the Rebels: Prepare..., Published on 01-27-2015, Ikhwanonline.com, via: <http://www.ikhwanonline.com/Article.aspx?ArtID=220195&SecID=211> (Last access December 31, 2016)

A Statement on Terrorism: its Danger and Combat, Issued by the Council at the Conclusion of Its 80th Session Held in Riyadh Starting from 09-13-2014, via:

<http://www.mofa.gov.sa/m/en/info/Pages/viewarticle.aspx?pageurl=/sites/mofaen/ServicesAndInformation/news/GovernmentNews/Pages/ArticleID2014917153454334.aspx> (Last access July 11, 2016)

A Statement on the Sanctity of the Demonstrations and Its Threat to the Islamic nation, It's issued by the Council at the conclusion on 03-06-2011, Islamic Research Journal, The General Presidency of Scholarly Research and Ifta. via:

<http://www.alifta.net/Search/ResultDetails.aspx?language=ar&lang=ar&view=result&fatwaNum=&FatwaNumID=&ID=13353&searchScope=2&SearchScopeLevels1=&SearchScopeLevels2=&highLight=1&SearchType=exact&SearchMoesar=false&bookID=&LeftVal=0&RightVal=0&simple=&SearchCriteria=allwords&PagePath=&siteSection=1&searchkeyword=217132217132216167216181217132216167216173032217136216167217132217134216181217138216173216169032216167216179217132217136216168217135216167032216167217132216180216177216185217138092#firstKeyWordFound> (Last access July 11, 2016)

Abd al- Wahhab Khallaf, Ilm Usul al-Fiqh (Science of Jurisprudence origins), 10th edition, Dawa office Publishing & Distribution.

Abdalla Hassan, Changing News, Changing Realities: Media Censorship's Evolution in Egypt, (2013)

Abdel Al Saidi, Renewers in Islam from the First Century to the Fourteenth 100 AH 137 AH, Arts Library for Printing, Publishing and Distribution, First Edition (1998)

Abdel Shafiq, Hezbollah: Different Vision, Jordan - Amman: Dar Al- karmal for Publishing (2008)

Abdul Qadir Odeh, Comparison between the Islamic Criminal Law and Positive Law, Lebnon,Beirut: Dar Al Arab Book for Publishing and Printing.

Abdul Rahman Al Dosari, Doctrinal Fanaticism and its Security Implications, Naif Arab University for Security Sciences (2013)

Abdul Rahman Al-Ruwaished, Movement of Thought and the State, Dar Al Uloom for Printing, Cairo, Second Edition (1978)

Abdulaziz Altwaijri, Towards a Renewal of Islamic Thought, Publications of the Islamic Educational, Scientific and Cultural Organization -ISESCO-, (2014)

Abdulaziz Othman Altwaijri, Islamic Discourse between Tradition and Modernity, A Journal of Future Ideology That Shapes Today The World of Tomorrow (2004), via:

<http://www.futureislam.com/inner.php?id=NTIw> (Last access December 2015)

Abduljalil Sajid, Islamophobia: A New Word for an Old Fear, a Paper Presented to OSCE Conference on Anti-Semitism and on Other Forms of Intolerance, Cordoba, 8 and 9 June 2005, via: <http://www.osce.org/files/documents/2/a/15618.pdf> (Last access March 2, 2017)

Abdulkareem Zidan, Brief of Jurisprudence Origins (Al Wajiz fi Usul Al-Fiqh), 6th Edition, Cordoba Corporation, Saudi Arabia (1976)

Abdulkareem Zidan, Introduction to (the study of?) Study Islamic Law, Umar bin Al Khattab Publishing & Distribution, (2002)

Abdullah Al Athari, Summary of the Sunni Sect, The Ministry of Islamic Affairs, Endowments, Call and Guidance - Saudi Arabia, First Edition 2003

Abdullah Al-ghareeb, Amal and the Palestinian Refugee Camps, (1986) via: <http://ia802304.us.archive.org/2/items/waq17261/17261.pdf> (Last access 1 August 2016)

Abdullah Alturki, Human Rights in Islam, The Ministry of Islamic Endowments& Da'awa & Guidance Affairs, Riyadh, Saudi Arabia.

Abdullah bin Abi Shaybah, Classified (Al Musannaf), Lebanon - Beirut: Dar Al Fikr Publication (1994)

Abdullah Hala, Analytical Reading in the Emergence of the Muslim Brotherhood, Published on 4-4-2009 through Nafithat Misr website, via: http://old.egyptwindow.net/Details.aspx?News_ID=361 (Last access 13 August 2016)

Abdullah Saud Al-Musa, The Provocation on Terroristic Crime between Islamic Law and Positive law, Naif Arab University for Security Sciences, Saudi Arabia, 2006

Abdullah Yusuf Ali, The Meaning of The Holy Quran, The Islamic Computing Centre, London.

Abdulmajeed Alsharfi, The Collective Ijtihad in Islamic Legislation, Ministry of Endowments and Islamic Affairs, Qatar, Doha (1998)

Abdulmajeed Muhammad Alsharfi, The Colective Ijtihad in Islamic Legislation, Ministry of Endowments and Islamic Affairs, Qatar, Doha (1998)

Abdulrahman Al- Maskari, Jurisprudential comparative studies highlight the richness and diversity of scientific knowledge of Islamic Thought, Oman Newspaper, via: <http://2015.omandaily.om/?p=250202> (Last access December 27, 2016)

Abdulrahman Al-Suyuti, Durr scattered, Lebanon - Beirut: Dar al-Fikr Publication

Abdurhman Alsaboni, The Entrance to study Islamic legislation, Almatbaeuh Aljadida Publishing & Distribution, Damascus, (1978)

About the Islamic Research Academy, Al-azhar University, via: <http://www.azhar.eg/en/Research-Academy/About-us>

Abu Mohammed Al- Nawbakhti ,Sects of Shia, Istanbul: Al- Dawlah press

Abu Muzaffar Alasphraina,Glances in Religion and Discrimination Sect Survivor from the Lost Sects, Lebanon - Beirut: Dar Al kotob Al eilmyah Publication (1983)

Abu Yusuf (d. 798) ,Harvest (Al- Kharj), Directed by: Taha Abdel Raouf Saad, Saad Hassan Mohamed, Azhar Library of Heritage

Abu Zakaria Al-Nawawi, The Curriculum: explanation of Sahih Muslim, Lebnon- Beirut: Dar Ihya Turath Publication, The second edition, 1973

Adel Safty, Arab Spring .. What does It Mean?, through Alarabiya Net on 08-05-2011 via: <http://www.alarabiya.net/views/2011/08/05/160884.html> (Last access 13 August 2016)

Adnan Shaker, a Friday Sermon, via: <https://www.youtube.com/watch?v=a5J8Pv6djA4> (Last access 12 August 2016)

African Charter on Human and Peoples Rights, Adopted on June 01, 1981, and entry into force: October 21, 1986.

Ahmad Bello Dogarawa, Role of Hisbah Institution in Ensuring Ethical Business Practices: Reflection for Shari'ah Implementing States in Nigeria, Paper Presented at the 2011 Ben-Africa Conference Zanzibar, Tanzaia 2011

Ahmad bin Murtada, Layers of Mu'tazila, Correction and Review by Susannah David Fraser, Lebanon- Beirut: Catholic Library, First Edition (1961)

Ahmad Wanees, Speech of the Terrorist Group, Albawaba News, Published on 12-03-2016 via: <http://www.albawabhnews.com/2251384> (Last access December 30, 2016)

Ahmed Al-Ansari, The effects of Jurists' differences in Sharia, Saudi Arabia - Riyadh: Rushd Library First Edition (1996)

Ahmed al-Waeli, The Identity of Shiism, Lebanon -Beirut: Dar Al Safwa Publication (1994)

Ahmed bin Hanbal, The Virtues of the Companions, Vol. 2, Alresalah Foundation - Beirut, 1983

Ahmed Ibn Shu'aib, Sunan Nasa'i, (trans. Muhammad Iqbal Siddiqi) Lahore - Pakistan: Kazi Publication, 1994.

Ahmed Mansour, Wahhabi Opposition to Saudi Arabia in the Twentieth Century, Egypt - Cairo, 2001

Ahmed Maqrizi, Homilies and Consideration by Mentioning Plans and Effects, Dar Al-Kotob Al-Ilmiyah for Publishing - Beirut, First Edition 1998

Al Ansari Hameed, Can Religious Discourse be Renewed?, Al Bayan Newspaper, (2006), via: <http://www.albayan.ae/opinions/1162995663128-2006-11-13-1.960046> (last access January 2016).

Al Jazeera, In Pictures: Memories of the Rabaa Massacre, via: <http://www.aljazeera.com/indepth/inpictures/2014/08/egypt-rabaa-cairo-massacre-201481213185826678.html> (Last access 16 August 2016)

Al- Malti Mohamed, Warning and the Response to the Whims and Fads, Iraq - Baghdad Muthanna Library for Publishing & Printing, and Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1968)

Al Muslim. net, Statement on the Duty of the People of Islam Towards Iran's Safavid Danger, via: <http://linkis.com/KKt43> (Last access 12 August 2016)

Al- Qadi Iyad al- Yahsubi, Ash- Shifa: Healing through Defining The Rights of Prophet Muhammad, Beirut: Dar al-Fikr Publication, 2002

Al Qutb Tabyah, Islam and Human Rights, Dar Arab Thought for Printing, Publishing and Distribution, Second Edition 1984, Cairo.

Al- Sabti Iyad Ibn Musa, Arranging perceptions and rounding paths to know the figures of Maliki School, the Ministry of Awqaf and Islamic Affairs, Morocco, Second Edition, 1984.

Alaa Bayoumi, The rise of Islamophobia in Western societies, via:

<http://www.aljazeera.net/knowledgegate/opinions/2006/10/12/%D8%B5%D8%B9%D9%88%D8%AF-%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%88%D9%81%D9%88%D8%A8%D9%8A%D8%A7-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85%D8%B9%D8%A7%D8%AA-%D8%A7%D9%84%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9> (Last access 16 August 2016)

Al-arbia. Net, North Sinai Witnessed During the Last Days Acts of Violence Targeting Police and Army, Published on 7-8-2013, via:

<http://www.alarabiya.net/ar/arab-and-world/egypt/2013/07/08/%D8%A7%D9%84%D8%A8%D9%84%D8%AA%D8%A7%D8%AC%D9%8A-%D9%8A%D9%87%D8%AF%D8%AF-%D8%A8%D8%A7%D8%B3%D8%AA%D9%85%D8%B1%D8%A7%D8%B1-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%A8%D8%B3%D9%8A%D9%86%D8%A7%D8%A1-%D9%81%D9%8A-%D8%AD%D8%A7%D9%84-%D8%B9%D8%AF%D9%85-%D8%B9%D9%88%D8%AF%D8%A9-%D9%85%D8%B1%D8%B3%D9%8A.html> (Last access March 6, 2017)

Al-Azhar Document on Renouncing Violence on 1-31-2013, via:

<http://www.skynewsarabia.com/web/article/72647/%D9%86%D8%B5-%D9%88%D8%AB%D9%8A%D9%82%D8%A9-%D8%A7%D9%84%D8%A7%D9%94%D8%B2%D9%87%D8%B1-%D9%84%D9%86%D8%A8%D8%B0-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D9%85%D8%B5%D8%B1> (Last access July 11, 2016), Article 6

Al-Azhar Document on Renouncing Violence on 31/1/2013, via:

<http://www.skynewsarabia.com/web/article/72647/%D9%86%D8%B5-%D9%88%D8%AB%D9%8A%D9%82%D8%A9-%D8%A7%D9%84%D8%A7%D9%94%D8%B2%D9%87%D8%B1-%D9%84%D9%86%D8%A8%D8%B0-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D9%85%D8%B5%D8%B1> (Last access July 11, 2016)

Al-Bashir I. Ahmed, Attributes of Contemporary Islamic Discourse, Fajr Al-hurria Newspaper, Egypt, 05-11-2011, via:

<http://www.25yanayer.net/%D8%B3%D9%85%D8%A7%D8%AA-%D8%A7%D9%84%D8%AE%D8%B7%D8%A7%D8%A8->

[%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%8A-%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D8%B5%D8%B1-2/](#)(Last access December 2015)

Alberto Spektorowski, Anti-semitism and Islamophobia: Two Faces of Discrimination?, the European Union's Seventh Framework Programme (FP7/2007-2013), 2016

Aleqtisadiah ,Hatred Invades the Hearts of Egyptians, via:

http://www.aleqt.com/2013/08/08/article_777018.html (Last access 16 August 2016)

Al-Haythami Al-Makki, The Holocaust Lightning in Response to the People of Innovation and Heresy, Egypt - Cairo: Cairo Library for Publishing & Printing (1956)

Ali Al Arpley, Remove Sorrow to Know Imams (Kashf Al Ghomah), Lebanon - Beirut: Dar Al Adhwa for Printing, Publishing and Distribution, Second Edition (1985)

Ali Al- Raqi, Sophistication keys (Mirqat Al Mafatih), Lebanon- Beirut: Dar Al Fikr for publications, First edition, 2002.

Ali Alfoneh, Hezbollah Fatalities in the Syrian War, Published on February 22, 2016 through Website of The Washington Institute, via:

<http://www.washingtoninstitute.org/policy-analysis/view/hezbollah-fatalities-in-the-syrian-war>(Last access 8 August 2016)

Ali Al-Sadig, What Do We Know about Hezbollah, Egypt - Ismailia: Imam Bukhari Library (2006)

Ali Bhat, Freedom of Expression from the Islamic Perspective, Journal of Media and Communication Studies, India, 2014

Ali Jerjani, Definitions (Atta'areefat), Dar al-kotob al-ilmiyah for publications, First Edition 1983, Beirut-Lebanon

Ali Khan Al-Husseini, The High Grades in the Shiite Layers, Iran - Qom: Beserti Library Publication, Second Edition (1977)

Al-Islam.org, The Quran and Hijab, via: https://www.al-islam.org/hijab-muslim-womens-dress-islamic-or-cultural-sayyid-muhammad-rizvi/quran-and-hijab#f_a99fd2fd_1 (Last access December 30, 2016)

Al-jazeera, Movement " Revolt ", via:

<http://www.aljazeera.net/encyclopedia/movementsandparties/2015/3/8/%D8%AD%D8%B1%D9%83%D8%A9-%D8%AA%D9%85%D8%B1%D8%AF> (Last access 13 August 2016)

Aljazeera, Saudi Arabia Cuts Diplomatic Ties with Iran, (2016), via:

<http://www.aljazeera.com/news/2016/01/saudi-arabia-severs-diplomatic-relations-iran-160103202137679.html> (Last access 9 August 2016)

Al-jazeera.net, Sand war, via:

<http://www.aljazeera.net/encyclopedia/military/2014/12/9/%D8%AD%D8%B1%D8%A8-%D8%A7%D9%84%D8%B1%D9%85%D8%A7%D9%84> (Last access 1 August 2016)

Al-khamees Mohammed, King Abdulaziz Care of Belief, Saudi Arabia - Riyadh: Secretariat Library to Celebrate a Hundred Years (1998)

Al-Qom Al-Ash'ari, Articles and Doctrines, Iran - Tehran: Haidarah for Publishing & Printing (1963)

Al-Sharif Al-Rdhi ,Rhetorical Approach (Nahj Al- Balaghah), Lebanon - Beirut: Dar Al- Kitab Publication (1967)

Alshrooq Online, Insults and Calls for Killing the Muslim Brotherhood and Torturing them, Published on 07-07-2013, via: <http://www.echoroukonline.com/ara/mobile/articles/171802.html> (Last access December 30, 2016)

Al-thahabi, The balance of the Equinox (Mizan Al-I'tidal), correction and review by Mohammad Badr al-Din Sadani, Egypt - Cairo: Al- saadah presses, First edition (1907)

Amera Ahmad, Arab League VS the European Union.. Are they equal?!, Arageek, (2015), via: <http://www.arageek.com/2015/10/16/arabian-nation-university-and-euro-union.html> (Last access January 2016)

Americans for Democracy and Human Rights in Bahrain, Commission for the Promotion of Virtue and the Prevention of Vice, via:

http://www.adhrb.org/wp-content/uploads/2015/04/2015.03.31_Ch.-1-CPVPV.pdf (Last access February 14, 2017)

Ammar Jaydal, Egyptians Under the Control of the Tyrants, Nafithat Misr Website, via: http://old.egyptwindow.net/ar_print.aspx?print_ID=34955 (Last access December 31, 2016)

Amnesty International, Flawed Reforms, Iran's New Code of Criminal Procedure, First Edition, London, 2016

Anne Weber, Manual on hate speech, Council of Europe Publishing (2009)

Anti- Cyber Crime Law, Date of issuance: 26 March 2007, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, via:

http://www.citc.gov.sa/en/RulesandSystems/CITCSys/tem/Documents/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf (Last access 3 August 2016)

Anver M Emon, Mark S Ellis, and Benjamin Glahn, Islamic law and international human rights law, Oxford University Press, (2012)

Arabic Sputnik News, Iranian Foreign Ministry: Saudi Arabia will pay dearly, via: http://arabic.sputniknews.com/arab_world/20160102/1016949543.html (Last access 11 August 2016)

Arnardttir, Oddny Mjall, Quinn, G, UN Convention on the Rights of Persons with Disabilities : European and Scandinavian Perspectives, Martinus Nijhoff (2009)

Ashraf Abu Attiyah & Yahiya Abu Zinah, Development of Religious Discourse as One of the Contemporary Educational Challenges, the Conference of the Islam and Contemporary Challenges, Islamic University in Medina, Saudi Arabi (2007).

Asim Agila, Intellectual Freedom, Lebanon - Beirut: ◌Alam Al Kotob Publication, First edition (1984)

Assad al-Qasim, Caliphate and Imamate crisis, and Its Contemporary Effects, Global Shiites Network, via: <http://shiaweb.org/books/khelafa/index.html> (Last access 11 August 2016)

Assad Competes Gaddafi in his Third Speech: He describes his opponents as "germs", via: <http://www.alarabiya.net/articles/2011/06/23/154481.html> (Last access 13 August 2016)

Atiya Salem, The position of the nation from imams' differences, Dar Al-turath, Saudi Arabia – Medina, Second edition (1991)

Ayman al-Gergawi, Professional abilities of ISIS as appeared in the video of Kasasbeh's execution, aljazeera.net, via:

<http://www.aljazeera.net/news/reportsandinterviews/2015/2/4/%D9%82%D8%AF%D8%B1%D8%A7%D8%AA-%D8%A7%D8%AD%D8%AA%D8%B1%D8%A7%D9%81%D9%8A%D8%A9-%D9%84%D8%AA%D9%86%D8%B8%D9%8A%D9%85-%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9-%D8%A8%D9%81%D9%8A%D8%AF%D9%8A%D9%88-%D8%A5%D8%B9%D8%AF%D8%A7%D9%85-%D8%A7%D9%84%D9%83%D8%B3%D8%A7%D8%B3%D8%A8%D8%A9> (Last access December

31, 2016)

Azhar Arsyad, *Renewal of Islamic Media Discourse: Form, Content, and Style*, The 2nd International Conference on Islamic Media, Muslim World League, (2011)

Bahjat Qarni, *Arab Spring in Egypt: Revolution and Beyond*, Lebanon - Beirut: The Center of Arab Unity Studies (2012)

Baker, Gordon P., and Peter M.S. Hacker, *Wittgenstein: Meaning and understanding: Essays on the philosophical investigations*, Oxford: Blackwell 2004

Barendt, Eric (2009) "Freedom of Expression in the United Kingdom Under the Human Rights Act 1998," *Indiana Law Journal*: Vol. 84: Iss. 3, via: <http://www.repository.law.indiana.edu/ilj/vol84/iss3/4>

Basic Law of Governance, Date of issuance: 3 March 1992, Date of Publication: 6 March 1992, Article 39, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, via: <https://www.boe.gov.sa/ViewSystemDetails.aspx?lang=en&SystemID=4&VersionID=240> (Last access 3 August 2016)

Basic Law of Saudi Government, Website of Bureau of Experts at the Council of Ministers via: <https://www.boe.gov.sa/ViewStaticPage.aspx?lang=en&PageID=25>

Bazian, Hatem, 2012. Muslims- Enemies of the State: The New Counter Intelligence Program (COINTELPRO), *Islamophobia Studies Journal*, Spring 2012.

BBC Arabic, About the Muslim Brotherhood in Egypt, Published on 2-18-2014, via: http://www.bbc.com/arabic/middleeast/2013/07/130706_ikhwan_profile (Last access 13 August 2016)

BBC News, Nasrallah: Saudi Arabia Wants to Ignite a War between Shiites and Sunnis in the World, via: http://www.bbc.com/arabic/middleeast/2016/01/160103_saudi_shia_hezbollah (Last access 11 August 2016)

Beck, Glenn, *It Is About Islam: Exposing the Truth About Isis, Al Qaeda, Iran, and the Caliphate*, First Threshold Editions/Mercury Radio Arts trade paperback edition, Threshold Editions/Mercury Radio Arts, 2015.

Ben Hubbard , Iranian Protesters Ransack Saudi Embassy After Execution of Shiite Cleric, via: http://www.nytimes.com/2016/01/03/world/middleeast/saudi-arabia-executes-47-sheikh-nimr-shiite-cleric.html?_r=0 (Last access 11 August 2016)

Bernard K. Freamon, *Martyrdom, Suicide, and the Islamic Law of War: A Short Legal History*, *Fordham International Law Journal*, Vol. 27, December 2003

Beston and Cripps, Freedom of expression and freedom of information: essays in honour of Sir A. Mason, (Oxford University Press, Oxford 2000)

Bible Gateway, Deuteronomy 13:15- 16 New English Translation (NET Bible), via:

<https://www.biblegateway.com/passage/?search=Deuteronomy%2013:15-17&version=NET> (Last access 30 July 2016)

Bible Gateway, Numbers 31 King James Version (KJV), via:

<https://www.biblegateway.com/passage/?search=Numbers+31&version=KJV> (Last access 30 July 2016)

Bin Bayyah. Abdullah, Islamic Discourse Between The Conclusive and The Variable, Abu Dhabi, UAE: Tabah Papers Series, September 2009

Black's Law Dictionary, 1407-08 (7th ed. 1999)

Bob Pitt, ECHR Ruling Inspires FPO Proposal for 'burq' Ban , Islamophobia Watch Documenting anti-Muslim bigotry (2014)

Bob Pitt, Oklahoma: Republican Politician Say Islam is Cancer in our Nation that Need to be Cut out, Islamophobia Watch Documenting anti-Muslim bigotry

Brett G. Scharffs (2013): International Law and the Defamation of Religious Conundrum, The Review of Faith & International Affairs

Britain and France conclude Sykes-Picot agreement, The day in history, via: <http://www.history.com/this-day-in-history/britain-and-france-conclude-sykes-picot-agreement> (Last access 30 July 2016)

Buyse, A. (2014), Dangerous Expressions: The Echr, Violence and Free Speech, International and Comparative Law Quarterly, (2014)

Buyse, A. (2014), Dangerous Expressions: The Echr, Violence and Free Speech, International and Comparative Law Quarterly, (2014)

Chris Allen, Islamophobia, Ashgate Publishing Limited, England and USA 2010.

Commission on Human Rights Resolution 1999/82 on Defamation of Religions, via: ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1999-82.doc (Last access March 4, 2017)

Communication No. 550/1993 (1996), individual opinion of Elizabeth Evatt and David Kretzmer, co-signed by Eckart Klein, via: <http://www1.umn.edu/humanrts/undocs/html/VWS55058.htm> (Last access July 15, 2016)

Constitution of The Arab Republic of Egypt 2014, via:

https://www.constituteproject.org/constitution/Egypt_2014.pdf

Constitution of the Islamic Republic of Pakistan, via:

<http://www.pakistani.org/pakistan/constitution/part9.html>

Constitution of the Republic of Turkey, via: http://www.hri.org/docs/turkey/part_iii_3.html

Constitution of United Arab Emirates, via: <http://www.refworld.org/pdfid/48eca8132.pdf>

Dalal Alshamrani, Islamophobia, International Journal of Humanities and Social Science (Aug 2013), Vol. 3, No. 15

Dalilah Qasimah, Discourse Strategies in the Hadith, Al Hadj Lakhdar University, Algeria, (2012)

Decisions of the Council of League of Arab States at the summit level the regular session 25, in: 25-26 /5/2014 held in Kuwait, via:

<http://www.lasportal.org/ar/summits/Documents/%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA%20%D9%85%D8%AC%D9%84%D8%B3%20%D8%AC%D8%A7%D9%85%D8%B9%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9%20%D8%B9%D9%84%D9%8A%20%D9%85%D8%B3%D8%AA%D9%88%D9%89%20%D8%A7%D9%84%D9%82%D9%85%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D8%B1%D8%A9%20%D8%A7%D9%84%D8%B9%D8%A7%D8%AF%D9%8A%D8%A9%2025.pdf> (Last access January 2016)

Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights, 32nd Session, 17 - 23 October, 2002: Banjul, The Gambia.

Dhafer Al Qasimi, Jihad and International Public Rights in Islam, Dar El Ilm Lilmalayin for Printing and Publishing, Lebanon - Beirut, First Edition 1982

Donohue, L.K. (2008) 'Terrorist Speech and Free Expression', in The Cost of Counterterrorism: Power, Politics, and Liberty. Cambridge: Cambridge University Press

dp-news, Saudi will be Erased from the Pages of History, via:

<http://www.dp-news.com/dpgulf/detail.aspx?id=5690> (Last access 11 August 2016), Quoting: Iranian Mehr News Agency.

Dr. A. Zahoor and Dr. Z. Haq, Prophet Muhammad's treaty with Jew, via:

<http://www.cyberistan.org/islamic/treaty22.html> (Last access July 15, 2016)

Dr. Matt J. Duffy, Media laws and regulations of the GCC countries, Doha Centre for Media Freedom.
ECRI General Policy Recommendation No. 5 on Combating Intolerance and Discrimination Against Muslims, Adopted on 03-16-2000, European Commission against Racism and Intolerance (ECRI) Council of Europe, via: <file:///C:/Users/rakan/Downloads/ECRI%20Recommendation%2005%20en.pdf> (Last access March 4, 2017)

Egypt Election Website, Election Results, Dr. Mohamed Morsi as President of Egypt, via: <http://elections.masreat.com/19302/> (Last access March 6, 2017)

Egyptian Law No 96 of Year 1996: Concerning the Regulation and Organization of Journalism and Press Functions, Article 20, via: http://www.law-democracy.org/wp-content/uploads/2010/07/Law.Press-Law_No_96_1996.pdf (Last access 3 August 2016)

Egyptian Law on the re-organization of Al-Azhar and included entities Law no. 103 for 1961, Article 10, via:
<http://www.egypt.gov.eg/arabic/laws/download/newlaws/%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%B1%D9%82%D9%85%20103%D9%84%D8%B3%D9%86%D8%A9%201961.pdf> (Last access 1 August 2016)

Egyptian Media Tawfiq Okasha Threatens to Burn and Kill Syrian Refugees in Egypt, through YouTube, via: <https://www.youtube.com/watch?v=LHpeUmn6Hw> (Last access 16 August 2016)

Egypt's Constitution of 2014, via: https://www.constituteproject.org/constitution/Egypt_2014.pdf (Last access 3 August 2016)

Eiadh Alsulami, Jurisprudence Origins, Dar Al - Tadmara for Printing and Publishing, Riyadh - Saudi Arabia, First Edition, 2005

Ekmeleddin Ihsanoglu, Islamophobia and Terrorism: Impediments to the culture of peace, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, The Cordoba Foundation, London 2012

Ekmeleddin Ihsanoglu, Islamophobia and Terrorism: Impediments to the culture of peace, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, p.12, The Cordoba Foundation, London 2012

Elena Mihajlova, Freedom of expression and hate speech, Polyesterday, Skopje (2013).

Emad Hilal, The History of Egyptian Fatwa (6), Published on 03-26-2015 through Masress Website, via: <http://www.masress.com/moheet/2236713> (Last access March 5, 2017)

Embassy of the United States Beirut- Lebanon, 30th Anniversary of the U.S Embassy Beirut Bombing, via: http://lebanon.usembassy.gov/pr_041813.html (Last access 2 August 2016)

E-media, Qasim: Saudi Arabia is Digging Its Own Grave, via: http://emediatc.com/index.php?page=Details&category_id=31&id=30048 (Last access 11 August 2016)

Erzsébet N. Rózsa, The Arab Spring: Its Impact on the Region and on the Middle East Conference, Academic Peace Orchestra Middle, August 2012

European Commission against Racism and Intolerance (ECRI) ECRI general policy recommendation No. 7 on national legislation to combat racism and racial discrimination, adopted on 13 December 2002

Fahd Al Arfaj, Incitement to Crime in the Perspective of Islamic Jurisprudence and the Saudi System, Naif Arab University for Security Sciences, 2006.

Farooq Ahmed, Islamic Scholars: These Evidences of Daesh Astray and Its being Away from Islam, Published on 7-3-2015, Alyoum Newspaper, via: <http://www.assakina.com/fatwa/73163.html> (Last access November 6, 2016)

Fathi Attia, Religious discourse between Heritage and Contemporary, Al-Azhar between research and public relations, (2015) via: <http://kenanaonline.com/users/fathiattia/posts/757223> (Last access December 2015).

Fathi Yakan, Imam Khomeini in the Face of US Demonization, via: <http://arabic.irib.ir/Monasebat/E-khomeini/Nazt1.htm> (Last access December 27, 2016)

Fatwa no. 25041 in 2-10-2011, Islamic Research Journal, Volume. 94, The General Presidency of Scholarly Research and Ifta

Fatwa no. 38436, Fatwa center - Islamweb, via:

<http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=FatwaId&Id=38436> (Last access December 29, 2016)

Fauzan Saleh, The Institution of Hisbah: Its Roles in Roles in Nurturing Fair and Just Economic System in Islam, Paper to be presented at the National Conference On Islamic Economics 2009 on 10th-11th February 2009 at University of Malaya.

FIB Report on Latest Hate Crime Statistics Released, via: <https://www.fbi.gov/news/stories/2015-hate-crime-statistics-released> (Last access February 28, 2017)

Firas Abdul Jalil, Freedom of Expression in the Holy Quran, Journal of Anbar University of the Islamic Sciences, Iraq 2009.

France 24, Hezbollah Condemns "the Assassination" of Nimr, via: <http://www.france24.com/ar/20160102-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D8%AD%D8%B2%D8%A8-%D8%A7%D9%84%D9%84%D9%87-%D9%84%D8%A8%D9%86%D8%A7%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D9%86%D9%88%D8%B1%D9%8A-%D8%A7%D9%84%D9%85%D8%A7%D9%84%D9%83%D9%8A-%D8%AA%D9%86%D9%81%D9%8A%D8%B0-%D8%B9%D9%82%D9%88%D8%A8%D8%A9-%D8%A7%D9%84%D8%A5%D8%B9%D8%AF%D8%A7%D9%85-%D9%86%D9%85%D8%B1-%D8%A7%D9%84%D9%86%D9%85%D8%B1> (Last access 11 August 2016)

G Malinverni, 'Freedom of Information in the European Convention on Human Rights and in the International Covenant on Civil and Political Rights' (1983) 4 Human Rights Law Journal 443.

Gaddafi: We're more Deserving to Libya than the Rats, via:

https://www.youtube.com/watch?v=YsML_KfrB_s (Last access 13 August 2016)

Gate of Islamist Movements, Osama bin Laden, via: <http://www.islamist-movements.com/26612> (Last access 2 August 2016)

GCC Statement: Gulf Countries Respond to Yemen Developments, via: <http://www.thenational.ae/uae/gcc-statement-gulf-countries-respond-to-yemen-developments#page2> (Last access 12 August 2016)

Geaves Ron, Islam Today: An Introduction, Continuum International Publishing, (2010)

Gebre Tareke, The Ethiopia-Somalia War of 1977, The International Journal of African Historical Studies, Vol. 33, No. 3 (2000), Boston University African Studies Center

General Comment no. 34 by the Committee on Human Rights 2011, para. 9, via:

<http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access February 1, 2017)

General Comment no. 34 by the Committee on Human Rights, via:

<http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access February 1, 2017)

General Islamic Conference (GIC), the Muslim World League (MWL), via:

<http://en.themwl.org/content/mwl-councils>

Ghalib Awaji, Contemporary Intellectual Doctrines and their Role in Contemporary Societies and the Position of the Muslim, Golden Modern Library, Jeddah, (2006)

Ghassan al-Izzi, Hezbollah From the Ideological Dream to the Political Realism, Kuwait: Dar Qirtas for Publishing (1998)

Ghazi Al Gosaibi, Until there is no more Tumult or Oppression, Dar Al Nadwa: Electronic Library, via: http://www.gulfkids.com/pdf/C_Fetnaah.pdf (Last access 2 August 2016)

Global Campaign For Free Speech, Memorandum on Media Regulation in the Islamic Republic of Iran, London, March 2006, via: https://www.sssup.it/UploadDocs/5962_8_R_Memorandum_on_Media_regulation_in_the_Islamic_Republic_of_Iran_Article19_11.pdf (Last access February 7, 2017)

Graham E. Fuller, A world Without Islam, Little Brown and Company, New York, First Edition 2010.

Gregory G. Mack, The Modern Muhtasib: Religious Policing in the Kingdom of Saudi Arabia, Montréal, Québec, Canada, (2013)

Haleem Abdel, Edge Ian, and Sharif Adel, Criminal Justice in Islam : Judicial Procedure in the Sharia, I.B. Tauris, (2003)

Hamdiya Saleh Delly, Minister Ali bin pumpkins, and his political role in the first Abbasid era, Qadisiyah University - Faculty of Education: Qadisiya Journal of Arts and Educational Science, No. 1, Vol. 8, (2009)

Hamid Al Sagheer, The Ethics of Wars in the Biography of the Prophet, Alalokh Library, Morocco 2015

Hamza Majid al-Majali, a Friday Sermon, via: <https://www.youtube.com/watch?v=PnPJpiXMeRo> (Last access 12 August 2016)

Handyside v. the United Kingdom, Application no. 5493/72, Judgment 7th December 1976

Harris, Molly I., Human Rights Legislation in Egypt and Iran: A comparative Historical Analysis, Senior Theses, Paper 89

Hassan Al-Sheikh, Deriving the Saudi Judicial System from Judicial Principles of the Islamic Sharia, via: www.saaaid.net/book/8/1627.doc (Last access July 14, 2016)

Hassan Ibrahim, The Fatimid Caliphate in Egypt, Al-Amiria Printing House in Cairo 1932

Hassan Shathly, Felonies in Islamic Jurisprudence; Comparative Study between Islamic Jurisprudence and law, University Book House, Riyadh, Saudi Arabia.

Hate Crime and Hate Speech in Europe: Comprehensive Analysis of International Law Principles, EU-wide Study and National Assessments, via: <http://sosracismo.eu/wp-content/uploads/2016/07/Hate-Crime-and->

[Hate-Speech-in-Europe.-Comprehensive-Analysis-of-International-Law-Principles-EU-wide-Study-and-National-Assessments.pdf](#) (Last access February 1, 2017)

Henry Laurens: “Le royaume impossible, la France et la genese du monde arabe“, A. Colin, Paris,1990.

Hisham Al Kotaite, Through dialogue, I Discovered the Truth, Global Shiites Network, via: <http://www.shiaweb.org/shia/haqiqa/pa30.html> (Last access 12 August 2016)

Honor media Charter of websites, Article 2, National News Agency - Lebanese Ministry Media, via: <http://nna-leb.gov.lb/ar/show-news/204408/nna-leb.gov.lb/ar> (Last access 3 August 2016)

Honsik v Austria, European Commission of Human Rights, Application No. 25062/94, Report of the Commission 18 October 1995.

Hugh Muir & Laura Smith, Islamophobia Issue, Challenges and Action, A report by the Commission on British Muslims and Islamophobia, Trentham Books Limited, First edition, England 2004

Human Rights Committee, 102nd session, Geneva, 11-29 July 2011, General comment No. 34 on Article 19: Freedom of opinion and expression, via: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (Last access March 4, 2017)

Human Rights Council, Tenth Session 2009, Resolution 10/22. Combating Defamation of Religions, via: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_22.pdf (Last access March 4, 2017)

Human Rights Watch, Iran: Freedom of Expression and Association in the Kurdish Regions, United States of America (2009), via: https://www.hrw.org/sites/default/files/reports/iran0109_web.pdf (Last access February 7, 2017)

Hussein Al-Houthi, The Responsibility of Religious Science Students: Part of a Series of Lectures of the Quiddance of the Holy Quran (Quoting from his Cassette Tapes, Prepared by Saleh Abu Giddenh), via: <http://oshag.yoo7.com/t105-topic> (Last access 1 August 2016)

Hussein Al-Houthi, The Risk of Entering the United States to Yemen: Part of a Series of Lectures of the Guidance of the Holy Quran (Quoting from his cassette tapes, Prepared by Saleh Abu Giddenh),, via: <http://oshag.yoo7.com/t105-topic> (Last access 1 August 2016)

Ibn Abd al-Barr, Collector of Brief Statements of Science and Virtues, Dar Ibn Al Jawzi for Publishing, Saudi Arabia, Jeddah 1994

Ibn Al-Nadim (d. 1047), Fihrist, Lebanon- Beirut: Dar Al-mareefa for Publishing and Printing. Second Edition (1997)

Ibn Hajar al-Asqalani, Fath Al-Bari, Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1959)

Ibn Hazm, Book of Al-Mahalla, Beirut: Dar al-Fikr Publication, Vol. 11, via:

<http://islamport.com/w/fqh/Web/862/3509.htm> (Last access 7/14/2016)

Ibn Manzur, Lisan al-Arab (The Arab Tongue), Dar Sader Publication, 3rd edition (2000)

Ibn Othaimeen, Total Opinions and Messages of Sheikh Ibn Othaimeen, Vol. 2, Dar al- Watan & Dar Al-Thuraya Publication, Riyadh, Saudi Arabia, 1993

Ibn Qayyim al-Jawziyyah, I'laam al-Muwaqqi'en 'an Rabb il 'Aalameen (Information for Those who Write on Behalf of the Lord of the Worlds), Dar al-kotob al-ilmiyah - Beirut, First Edition 1991.

Ibn Qudamah al-Maqdisi, Book of Al Mughni, Vol. 11, Dar Al-kitab Alarabi Publishers, Beirut 1983

Ibn Qutaiba A-dinouri, The Knowledge, Lebanon- Beirut: Dar Ihya Turath for Publication, Second Edition (1970)

Ibn Taymiyyah, Answering Those who Altered the Religion of Jesus Christ, Saudi Arabia- Riyadh: Dar Al- Asemah Publishing and Distribution (1999)

Ibn Taymiyyah, Majmu 'Fatawa, King Fahd Complex for the Printing of the Holy Quran, the City of the Prophet, Saudi Arabia (1995)

Ibn Taymiyyah, Majmu 'Fatawa, King Fahd Complex for the Printing of the Holy Quran, the city of the Prophet, Saudi Arabia (1995)

Ibn Taymiyyah, The Curriculum of Sunnah in the Repeal of the Words of the Shiites, Saudi Arabia - Riyadh: Riyadh presses.

Ibn Uthaymeen, Doctrine of the Sunnis and the Community, Saudi Arabia - Riyadh: Cooperative Office for Dawah and Guidance in Sultanah, Fourth Edition (2001)

Ibn Uthaymeen, The Open Door Meeting, Part. 57, Islamic Website, via:

<http://shamela.ws/browse.php/book-7687#page-1712> (Last access 11 August 2016)

Ibrahim Al Thagafi, The Raids (Al gharat), Iran Edition, via:

http://www.ebookshia.com/upload/bookFiles/2011/%D8%A7%D9%84%D8%BA%D8%A7%D8%B1%D8%A7%D8%AA_%D8%AC%D9%84%D8%AF_1.pdf (Last access 9 August)

Ibrahim Alnasser ,The Position of Islamic Law on Banks, Islamic Research Journal No. 18, The General Presidency of Scholarly Research and Ifta, Saudi Arabia, (1987)

Ibrahim Saleem, Etiquette of Communication, Ittihad Newspaper, UAE, visa:

http://www.alittihad.ae/investigations_details.php?id=293&pid=1 (Last access November 4, 2016)

ICLA Admin, The Problematic Definition of “Islamophobia”, Published on 9-22-2013, via: <http://www.libertiesalliance.org/2013/09/22/problematic-definition-islamophobia/> (Last access 16 August 2016)

Imam Al-Bukhari, Sahih Al-Bukhari (Muhammad Muhsin Khan trans.,) Published by: Darussalam, Riyadh, 1997.

Imam Khomeini, Exporting the Revolution as Seen by Imam Khomeini, Iran - Tehran: Foundation Organize and Disseminate the Heritage of Imam Khomeini, via: <http://arabic.irib.ir/Monasebat/E-khomeini/book-pdf/Tasdir-alsoura.pdf> (Last access 1 August 2016)

Imam Muslim, Sahih Muslim (Abdul Hamid Siddiqui trans.,), New Delhi: Kitab Bhavan, 2000.

Institute for Contemporary Affairs, Iranian-Saudi Relations before the Abyss, via: <http://jcpa.org/article/iranian-saudi-relations-before-the-abyss/> (Last access 11 August 2016)

International Convention on the Elimination of All Forms of Racial Discrimination. Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969.

Interview – Saudi Foreign Minister on CNBC, via: <https://www.youtube.com/watch?v=f7rMEve7o4E> (Last access 11 August 2016)

Iran Chamber Society, History of Iran: Mohammad Reza Shah Pahlavi, via:

http://www.iranchamber.com/history/mohammad_rezashah/mohammad_rezashah.php (Last access 1 August 2016)

Islam and Revolution, Writings and Declarations of Imam Khomeini, Translated and Annotated by Hamid Algar, Mizan Press, Berkeley Contemporary Islamic Thought, Persian Series (1981), p.28 via: <http://multiworldindia.org/wp-content/uploads/2010/05/ISLAM-and-REVOLUTION.pdf> (Last access 1 August 2016)

Islamic Fiqh Council- Muslim World League, Islamic Fiqh Magazine, Second Year, Second book (1989), via: <http://ar.themwl.org/sites/default/files/FMAG2.pdf> (Last access 1 August 2016)

Islamic Penal Code of the Islamic Republic of Iran – Book Five, via: <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#1>

Islamic Penal Code of the Islamic Republic of Iran, Iran Human Rights Documentation Center, via: <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3200-islamic-penal-code-of-the-islamic-republic-of-iran-book-one-and-book-two.html> (Last access 3 August 2016)

Islamic Republic of Iran Constitution, via:

<http://www.iranonline.com/iran/iran-info/government/constitution.html> (Last access 3 August 2016)

Islamic Republic of Iran Constitution, via:

<http://www.iranonline.com/iran/iran-info/government/constitution-1.html>

Islamist movements Gate, Osama bin Laden "Al-Qaeda's Leader", Published on 02-15-2015, via: <http://www.islamist-movements.com/26612> (Last access December 31, 2016)

Ismail Basri, The Relentless Motivation to Shorten Hadith Studies "Albaeith Alhathith", Dar Al-Kotob Al-Ilmiyah - Beirut for Publication, Lebanon- Beirut.

Ismail bin Kathir, The Beginning and The End, Correction and Review by Mohammed bin Abdul Aziz Al-Najjar, Saudi Arabia - Riyadh: Al-Asmaee Library for Publishing & Printing

Ismail Ibn Kathir, The Beginning and the End, Vol. 5, Dar Al-maaref Library for Publishing & Printing - Beirut, 1991

Issam Ahmed al-Bashir, Towards Islamic Discourse, Renaissance and Civilizational Communication Forum, Sudan - Khartoum 2011

J. R. T. and the W. G. Party v. Canada, Communication No. 104/1981, U.N. Doc. CCPR/C/OP/2 at 25 (1984),

Ja'far Subhani, Shiite in History Procession, Iran: Moawinit Shuuwn Altaemim w Albahwth for Publishing, First Edition 1993

Jallow AY (2015) Freedom of Expression from the Islamic Perspective, Mass Communication Journalism 5:278. doi:10.4172/2165-7912.1000278

Jallow AY (2015) Freedom of Expression from the Islamic Perspective. J Mass Communication Journalism 5:278. doi:10.4172/2165-7912.1000278

Jamaal al-Din M. Zarabozo, What Is Islam?, Ministry of Islamic Affairs, Endowments, Da'wah, and Guidance, Saudi Arabia, Riyadh (2005)

Jamal Bawatineh, The Renewal of Contemporary Religious Discourse is an Urgent Need, General Conference of the Twenty - First of the Supreme Council for Islamic Affairs, Cairo, (2009)

James Ciment, Encyclopedia of Conflicts Since World War II, Routledge: Taylor & Francis group, London And New york, Second edition (2007)

Jawad Mughniyah, Khomeini and Islamic State, Lebanon - Beirut: Dar El -Ilm Lilmalayin for Publishing (1979)

Jenny James, 'When Fear is a Crime' The Muslim-Christian Debate Website, March 1997, via: <http://debate.org.uk/topics/politics/jenny4.htm>

Jersild v. Denmark [GC], Judgment of 23 September 1994, Series A No. 298,

Jim Krane and Hamza Hendawi, Saddam Defiant before Iraqi Judge, Deseret News, (2004)

John L. Esposito and Ibrahim Kalin, Islamophobia: The Challenge of Pluralism in the 21st Century, New York: Oxford University Press, 2011.

John L. Esposito, Islam: The Straight Path, Oxford University Press, Revised third edition (2005), New York

Joint Declaration on Defamation of Religion, and Anti-Terrorism and Anti-Extremism Legislation, The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information, Having met in Athens on 9 December 2008, under the auspices of ARTICLE 19, Global Campaign for Free Expression, via: <http://www.osce.org/fom/35639?download=true> (Last access March 4, 2017)

Joint Statement on the Formation of an Islamic Military Alliance to Fight Terrorism, Kingdom of Saudi Arabia - Ministry of Foreign Affairs, (2015), via:

<http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/GovernmentNews/Pages/ArticleID201512159481880.aspx> (Last access January 2016)

Joint Submission by Mr. Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief; Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression; and Mr. Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, OHCHR expert workshops on the prohibition of incitement to national, racial or religious hatred. Expert workshop on Europe (9-10 February 2011, Vienna), via:

http://www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/CRP3Joint_SRSubmission_for_Vienna.pdf (Last access July 15, 2016)

Jonathan Lyons, *Islam Through Western Eyes: From the Crusades to the War on Terrorism*, Columbia University Press 2012

Juwayni, Imam al-Haramayn, *Mughith al-Khalq fi Tarjih al-Qawl al-Haqq*, Egypt - Cairo: The Egyptian library (1934)

Kamal Muhammad, *The Provisions in Participating in the Crime from the Islamic Jurisprudence*, An-Najah National University, Palestine 2010

Kamali, *Freedom of Expression in Islam*, The Islamic Text Society, (1994), Kuala Lumpur.

Kamali, *Istihsan (Juristic Preference) and its Application to Contemporary Issues*, Jeddah: Islamic Research and Training institute, 1997.

Kate Zernike & Michael T. Kaufman, *The Most Wanted Face of Terrorism*, The New York Times News, Published on MAY 2, 2011, via: <http://www.nytimes.com/2011/05/02/world/02osama-bin-laden-obituary.html> (Last access December 31, 2016)

Khaled Hanafy, *The Secluded Coves: Patterns and Motives Political Hatred in the Region after the Revolutions*, No. 3 from *Versions of (the Situation of Region)*, Regional Center for Strategic Studies – Cairo.

Khalid Al Jumaili, *The Provisions of Treaties in Islamic Law*, Center of Islamic Research and Studies, Iraq, Baghdad, (2008)

Khalid al-Fawwaz, *The Suicide Bombings*, Saudi Arabia- Riyadh: Naif Arab University for Security Sciences (2009)

Khalid Al-hamed, *The Provisions of Hijab*, *Islamic Research Journal*, Vol. 85, The General Presidency of Scholarly Research and Ifta. Saudi Arabia- Riyadh

Khamis al-Zahrani, *The Arrest of a Young Man Killed his Parents with Knives*, Published on 10-23-2016, alarabiya.net

Khan, Shafique Ali, *Freedom of Thought and Islam*, Royal Book Company, Karachi, 1989

Khan, Shafique, Freedom of Thought and Islam, Royal Book Company, Karachi, 1989

Khomeini's Will, See full text of his Will via:

<http://www.alseraj.net/maktaba/kotob/english/Miscellaneousbooks/LastwillofImamKhomeini/occasion/ertehal/english/will/lmnew1.htm> (Last access 1 August 2016)

Khutbah, Dictionary.com Unabridged. Retrieved August 12, 2016 from Dictionary.com website <http://www.dictionary.com/browse/khutbah>

Kingdom of Saudi Arabia Ministry of Foreign Affairs, Official Source at the Foreign Ministry: Iran Has Established a Record of Spreading Sedition, Unrest and Chaos in the Region, via:

<http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/MinistryNews/Pages/ArticleID2016119214054459.aspx> (Last access 2 August 2016)

Kingdom Stance on Palestinian Issue, Kingdom of Saudi Arabia Ministry of Foreign Affairs, via: <http://www.mofa.gov.sa/sites/mofaen/KingdomForeignPolicy/Pages/PalestineCause34652.aspx> (Last access January 2016)

Konrad Pedziwiatr, Muslims in the Polish Media - the new Folk Devil?, Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, The Cordoba Foundation, London 2012

L. and V. v. Austria - 39392/98 and 39829/98, Judgment 9.1.2003.

Lambert, Mariam and Susan, Naseeha, Betascript Publishing, 2011

Law No. 58 01 The year 1937 Promulgation The Penal Code, Criminal Code of Egypt as of 1992 (English version), via:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/57560/111585/F1337119832/EGY57560.pdf> (Last access 3 August 2016)

Law of Printed Materials and Publication, Date of issuance: 29 November 2000, Article 9, Bureau of Experts at the Council of Ministers - Kingdom of Saudi Arabia, via: <https://www.boe.gov.sa/ViewSystemDetails.aspx?lang=en&SystemID=14&VersionID=22> (Last access 3 August 2016)

Law on the re-organization of Al-Azhar and included entities Law no. 103 for 1961, via: <http://www.egypt.gov.eg/arabic/laws/download/newlaws/%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%B1%D9%82%D9%85%20103%D9%84%D8%B3%D9%86%D8%A9%201961.pdf>

Lawrence M. Mute, Legislation, hate speech, and freedom of expression in Kenya, Pambazuka News: Voice for Freedom and Justice, (2008)

Lawrence M. Mute, Legislation, hate speech, and freedom of expression in Kenya (2008, Issue 403) via: <http://pambazuka.org/en/category/comment/51378> (last access July 15, 2016)

Lebanese Publications Law (Law No. 121 in 1983), Article 16, Ministry of Media, via: <http://www.ministryinfo.gov.lb/main/MediaLaws/ActNo.382.aspx> (Last access 3 August 2016)

Lebanon Debate, Angry Reactions from Iran and Its Allies on the Execution of Nimr, via: <http://www.lebanondebate.com/news/231584> (Last access 11 August 2016)

Lehideux and Isorni v. France [GC], judgment of 23 September 1998, Reports of Judgments and Decisions 1998-VII

Libyan Law No. 70 of 1973 regarding the establishment of adultery punishment and amending some provisions of the Penal Code in conformity to the primary principles of Islamic law, Website of Libyan Ministry of Justice, via: <http://aladel.gov.ly/home/?p=1352>

Lievens, Eva, Protecting Children in the Digital Era : The Use of Alternative Regulatory Instruments (1), BRILL (2010)

Lloyd Ridgeon, Major World Religions: From T Origins to the Present, Routledge Curzon, London and New York (2003)

Loai Ali, Observatory Fatwa: "Daesh" Aims to Spread Sectarianism and Racism among Muslims, Published on 9-9-2015, the Seventh Day Newspaper.

Lydia Smith, Arab Spring 5 Years on: Timeline of the Major Events and Uprisings in the Middle East, Published on January 25, 2016, International Business Times, via: <http://www.ibtimes.co.uk/arab-spring-5-years-timeline-major-events-uprisings-middle-east-1539085> (Last access March 6, 2017)

Magali Al- Magali, The Protective Procedures from Doctrinal Fanaticism, Saudi Arabia- Riyadh: Naif Arab University for Security Sciences (2008)

Maher Holi, Freedom of Expression and Respect of Religions and Sanctities, Islamic University in Gaza, Palestine 2008

Mahmoud al-Badawi, "The Muslim Brotherhood" in Ramadan .. from "Rabaa" into "the Death Penalty", via: <http://www.elwatannews.com/news/details/756905> (Last access 16 August 2016)

Mahmoud Zaini, Cooperation and Its Impact in the Commission of the Crime of Murder: a Comparative Study between Islamic Sharia and Positive law, Dar New University for publication, Alexandria 2004

Mahmud Al rajabi, Attitudes of Islamic Discourse in News Websites, Middle East University, (2012)

Majed Kayali, Extremist Groups (Islammat), Published on 01.26.2015, number: 9809, Arab newspaper London, via:

<http://www.alarab.co.uk/article/%D8%A7%D8%B1%D8%A7%D8%A1/43641/%5C%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D8%A7%D8%AA%5C%D8%A7%D9%84%D8%AC%D9%85%D8%A7%D8%B9%D8%A7%D8%AA%D8%A7%D9%84%D9%85%D8%AA%D8%B7%D8%B1%D9%81%D8%A9> (Last access November 4, 2016)

Malik ibn Anas, Al-Muwatta of Imam, (translated by Aisha Abdurrahman Bewley) London& New York: Kegan Paul International, 1989

Manna' al-Qattan, The Legislation and Jurisprudence in Islam, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

Manna' al-Qattan, The Legislation and Jurisprudence in Islam, 5th edition, Wahba Publishing & Distribution, Cairo, (2001)

Mareb press, Iran is "Furious" for the Execution of the Saudi Cleric "Nimr Al-Nimr ", via: http://marebpress.net/mobile/news_details.php?sid=115783 (Last access 11 August 2016)

Martin J (2006). Europe's contempt for other cultures can't be sustained, The Guardian, February 17, 2006

Marwan Muhammad, Islamophobia: A Deep- Rooted Phenmenon, Published by Arches Quarterly, Islamophobia and Anti-Muslim Hatred: Causes & Remedies, Vol. 4, The Cordoba Foundation, London 2012

Mashood Adebayo Badekin, Modern Muslim States Between Islamic Law and International Human Rights Law, The University of Nottingham, (2001)

Maspero Report: Between political Incitement to Violence, and Sectarianism, and Mislead Public Opinion, Egypt - Cairo: Corporation of Freedom of thought and expression (2011)

Matt Cherry and Roy Brown, Speaking Freely About Religion: Religious Freedom, Defamation and Blasphemy, International Humanist and Ethical Union, United Kingdom- London 2009

Mawdudi Saayyid Abul Ala, Toward Understanding Islam, U. K. I. M. Dawah Centre (1960)

Means of Renewing Religious Discourse, Recommendations of Al-Awqaf Conference, held on Cairo, (2015), via:

http://www.awkafonline.com/portal/wp-content/uploads/2015/08/Recommendations_English_25-5-2015.pdf (last access January 2016)

Mendel, T. (2012) 'Does International Law Provide for Consistent Rules on Hate Speech?', in Herz, M. and Molnar, P. (eds.) *The Content and Context of Hate Speech: Rethinking Regulation and Responses*. Cambridge: Cambridge University Press,

MH Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford 2008

Mirza Al Khounsara, *Kindergartens of Havens in the Conditions of Scientists and Sadat (Rodhat Al Jannat)*, Iran- Qum: Ismailian Library

Mohamed al-Hashimi, *The Grand layers*, Lebanon - Beirut: Dar Al kotob Al eilmyah Publication (1990)

Mohamed Omar, *Fanaticism is a serious pest*, UAE: Khaleej newspaper, date of publication: 04/03/201, via: <http://www.alkhaleej.ae/supplements/page/b6257da3-fe1f-4e86-b352-7603df9158dc> (Last access 1 August 2016)

Mohamed Omar, *Fanaticism is a Serious Pest*, UAE: Khaleej Newspaper, Date of Publication: 04/03/201, via: <http://www.alkhaleej.ae/supplements/page/b6257da3-fe1f-4e86-b352-7603df9158dc> (Last access 1 August 2016)

Mohammad Al Sharif, *A Press Meeting with Dr. Abbas Al-Shoman*, Published on 11.9.2015, Number: 15484, *Alyoum N ewspaper*, Cairo, via: <http://www.alyaum.com/article/4098745> (Last access November 4, 2016)

Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Islamic Texts Society, 1991

Mohammed Al- Hussein, *The Origin of the Shiites and their Assets*, Foundation of Imam Ali for Publishing

Mohammed Al- Kheraan, *Freedom of expression between the Islamic concept and the contemporary concepts*, *The Journal of Sharia and Islamic Studies* (2002).

Mohammed Al- Muzaffar (d. 1956), *History of Shia*, Iran - Qom: Beserti Library Publication

Mohammed Al Wahaibi, *The Things that Invalidate The Belief and Controls of Blasphemy*, Dar Al-Muslim for Publishing, Saudi Arabia.

Mohammed Al-Azhari (d. 980), *Refinement Language (Tahdhib Al-lugha)*, Lebnon- Beirut: Dar Ihya Turath Publication, First Edition (2000).

Mohammed Albishir, *Freedom of Opinion in Islam and Legal Systems*, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First edition 2009

Mohammed Ghaith: Syrian Women Go to Rabaa in Order to " Jihad's Marry" with the Muslim Brotherhood, through YouTube, via: <https://www.youtube.com/watch?v=v3K5zLVMH08> (Last access 16 August 2016)

Mohammed Khader, Freedom in Islam, , Dar Al Eatsam for Printing, Publishing and Distribution, Egypt-Cairo

Mohammed Rajab Salameh, A New Study Reveals the Real Affiliation of "Muslims Brotherhood" and Its Founder to Freemasonry, Published on 9-18-2013 through Elmogaz.com via:

<http://www.elmogaz.com/node/107121> (Last access 16 August 2016)

Mohammed Rumaihi, A Look at the Future: Hate Speech, Kuwait Journal, via: www.kuwaitmag.com (Last access 13 August 2016)

Mohammed Suhail, The History of the Safavid State in Iran, Dar An-nafae for Publishing, Beirut, First Edition 2009

Mohammed Zoheily, Religious Freedom in Islamic Sharia, Damascus Journal of Economic and Legal Sciences, The first issue 2011

Mohsen Kadivar, Apostasy, Blasphemy, & Religious Freedom in Islam, Publisher: Official Website of Mohsen Kadivar 2014

Mosaed Dhaher, Arab Renaissance and Japanese Renaissance : the similarity of introductions and the different results, Kuwait, Alam Al-mareefa for Publishing and Printing (1999)

Muhammad Abu Zahra, History of Islamic Doctrines, Dar Al-Fikr Al-Arabi Publication, Cairo

Muhammad Al Jizani, Landmarks of Jurisprudence Origins (Maalim Usul Alfigh eind Ahle sunnah wal jama'ah), 5th edition, Dar Ibn Al Jawzi Publication, 2005

Muhammad Al-Husseini, Bride Crown from Jewels Dictionary (Taj Al Arus min jawahir al qamos), Dar Al Hedaya for Publishing and Distribution

Muhammad Almasaary, via:

https://ar.wikipedia.org/wiki/%D9%85%D8%AD%D9%85%D8%AF_%D8%A7%D9%84%D9%85%D8%B3%D8%B9%D8%B1%D9%8A#cite_note-tajdeed-6 (Last access December 29, 2016)

Muhammad Al-shuyoukh, Monitoring of Political Islam Sunni, Published: 03-27-2013, Middle East Online, via: <http://www.middle-east-online.com/?id=152016> (Last access December 29, 2016)

Muhammad Al-Tabari, Tabari's history: the History of Nations and Kings, Correction and Review by Muhammad Abu Al Fadl, Lebanon- Beirut: Dar Al-Maaref Library for Publishing & Printing (1998) Sixth Edition.

Muhammad Al-Tabari, Tafsir al-Tabari (The commentary on the Quran by Al-Tabari) , Dar Hajr for printing, publishing, distribution and advertising, First Edition 2001

Muhammad Al-Thahabi, Sir Heraldry, Al Risala Foundation (2001)

Muhammad Ayub, Understanding Islamic Finance, John Wiley & Sons Ltd 2007

Muhammad bin Abd al-Wahhab, Call of Sheikh. Muhammad ibn Abd al-Wahhab and its Effect in the Muslim World, Saudi Arabia - Riyadh: The Ministry of Islamic Endowments& Da'awa & Guidance Affairs (2001)

Muhammad Bin Eisa, Jami' At-Tirmidhi, (translated by Abu Khaliyl) Dar-us-Salam, Saudi Arabia, Riyadh (2007).

Muhammad Harb, Ibn Taymiyyah and His Position on the most Important Groups and Beliefs in His Era, Beirut -Lebanon: Alam Al Kotob Publication, First Edition, 1987

Muhammad Ibn Abd Al-Wahhab ,A Summary of Biography of the Prophet, Saudi Arabia - Riyadh: The Ministry of Islamic Endowments Da'wah and Guidance Affairs (1997)

Muhammad Ibn Abd Al-Wahhab, Reveal the Suspicion, Dar Al Iman, Alexandria

Muhammad Ibn Yazid, Sunan ibn Majah, (trans. Muhammad Tufail Ansari), Lahore, Pakistan: Kazi Publications, 1993-1996

Muhammad Kabbani & Seraj Hendricks, Jihad: A Misunderstood Concept from Islam, The Islamic Supreme Council Of America, via: <http://islamic supremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html> (Last access March 19, 2017)

Muhammad Majlisi ,Bihar Al Anwar, Iran- Qom: Revival of Islamic Books for Publishing

Muhammad Rashid, Tafsir Al- Manar, Egypt: Egyptian General Book Authority (1990)

Muhammad Yunus, Renewal of Islamic Discourse from the Pulpit to the Internet, Arab House Publishing, Cairo, (2013)

Mullah Majlisi, Evacuation of Eyes (Jala' Aliyun), Iran - Tehran: Islamic Foroshi Publication

Mustafa Al Zarqa, The General Entrance to Jurisprudence, The second edition, Dar Al- qalam Publishing & Distribution, Damascus (2004)

Muwaffaq al-Din Al Maqdisi, The Enricher (Al Mughni), Volume. 3, Cairo Office, (1968)

Muwaffaq al-Din, Al Maqdisi, The Enricher (Al Mughni), Cairo Office, (1968)

Nabil Kerkor, Freedom of Belief and the Rule of Apostasy in Islamic Law, Legal Forum Magazine, Issue 5, University of Biskra Repository

Nabil Zaki, The Brotherhood...Outside History, Masress News, Published on 01-19-2014, via: <http://www.masress.com/alahaly/36026> (Last access December 30, 2016)

Nadeem Siddiq, Freedom of Conscience and Expression in Islam, The Review of Religions (2010)

Nakoula Basseley Nakoula, Innocence of Muslims, To watch full film, visit this link: <https://www.youtube.com/watch?v=tv7ONKS9DYw> (Last access March 3, 2017)

Nancy Flowers, Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities, Second edition, 2012, University of Minnesota Human Rights Center.

Nasser Abdul Karim, Total Origins of Sunnis in Belief, Saudi Arabia - Riyadh: Dar Al Watan for Publishing, Second Edition (1992)

Nasser Al aql, Islamic, not Wahhabism, Dar Knoz Ishbilila for Publishing and Distribution (2004)

Nasser Al-Hzeemi, Days with Juhayman: I was with the Salafist Group, Lebanon- Beirut: Arab Network for Research and Publishing (2011)

National Coalition for Media Freedoms, The Egyptian Journalists Honor Charter 1998, the Supreme Press Council approved to issue it in 03/26/1998, via: <http://ncmf.info/?p=151> (Last access 3 August 2016)

National Coalition for Media Freedoms, The Egyptian Journalists Honor Charter 1998, the Supreme Press Council Approved to Issue It in 03/26/1998, via: <http://ncmf.info/?p=151> (Last access 3 August 2016)

Nawal Al-Eid, Women's Rights in the Light of the Sunnah, Research Presented to Prince Naif bin Abdulaziz Award for Prophetic Sunnah and Contemporary Islamic Studies, First Edition 2006.

Nematullah Jazairi, Al-Anwar Al-Numaniyah, Dar al qari & Dar Kufa Publication, First Edition (2008)

Noureddine Bocardad, Freedom of Expression in Islam, The Journal of Al Bayan, Indonesia 2012

Office of the High Commissioner for Human Rights, General Comment No. 10: Freedom of expression (Art. 19), 19th session on 29/06/1983

Official ISIS Announcement on Brussels Attacks via: <http://heavy.com/news/2016/03/official-isis-announcement-state-on-belgium-attacks-bombings-attack-brussels-paris-attacks-france-amaq-news-agency-terrorism-bombs-tweet-twitter-english-translation/> (Last access December 31, 2016)

Official ISIS Announcement on Paris Attacks via:

<https://www.paldf.net/forum/showthread.php?t=1180950&page=27> (Last access December 31, 2016)

Omar Al Ashqar, The History of Islamic Jurisprudence, Dar Al-Nafae Publishing & Distribution, Jordan, Amman (1991)

Omar Al Ashqar, The Provisions of Marriage in the Light of the Quran and the Sunnah, Dar Al-nafae for Publishing and Distribution, Lebanon - Beirut, First Edition 1997.

Osama Al Hamoui, Principles of Islamic law, Damascus University press, 2009

Pakistani law of the Offence of Adultery, ordinance, 1979 which was in conformity with the injunctions of Islam, via: http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html

Paul Macmasters, 'Must a Civil Society be a Censored Society?'. Human Rights, American Bar Association, 1999, Vol. 4, No. 26

Prophet Muhammad's Treaty with Jews, (622 C.E.), Translated by Dr. A. Zahoor and Dr. Z. Haq via: <http://www.cyberistan.org/islamic/treaty22.html> (Last access July 15, 2016)

Qayati Mohammed, Osama bin Laden and Al Al-Qaeda's bloody history, Arab News Network, via: <http://www.annetv.tv/new/showsubject.aspx?id=23276#.V6EWI2grJeU> (Last access 2 August 2016)

Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Conclusions and recommendations emanating from the four regional expert workshops organized by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

Raj Bhala, Understanding Islamic Law (Shari'a), LexisNexis; 2011

Recommendation No. R (97) 20 on 'hate speech', adopted by the Committee of Ministers of the Council of Europe in 1997.

Regional Center for Strategic Studies - Cairo (RCSS) , Mechanisms that "Daesh" Uses for Recruiting Youth, Published on 10-20-2014.

Religious Hostilities Reach Six-Year High, Pew Research Center, via:

<http://www.chforum.org/2014/01/14/religious-hostilities-reach-six-year-high/> (Last access 13 August 2016)

Resolution 176 (2/19) on Freedom of Expression: Its Controls and Provisions, April 2009, The Council of the International Islamic Fiqh Academy, via: <http://www.iifa-aifi.org/2294.html> (Last access February 11, 2017)

Resolution No: (24-25) of the Final Statement Issued by the Organization of Islamic Cooperation at Its (12) in 6-7/ 2/2013, Held in Cairo, via:

http://www.oic-oci.org/external_web/is/12/en/docs/final/is12_fc_rev2_en.pdf (Last access January 2016)

Reuters Arabic , via: <http://ara.reuters.com/article/topNews/idARAKBN0UG0E720160102> (Last access December 31, 2016)

Robert Spencer, The Politically Incorrect Guide to Islam (And the Crusades), Regnery Publishing, Washington, D.C., United States 2006

Royal Decree No: M / 37 Date: 09/06/1980 on the Law of Commission for the Promotion of Virtue and Prevention of Vice, Article 9, via:

<https://boe.gov.sa/ViewSystemDetails.aspx?lang=en&VersionID=97&SystemID=2383> (Last access February 14, 2017)

Rudaw, the Outcomes of Nimr's Execution will be Great on Saudi, via:

<http://rudaw.net/arabic/middleeast/iran/02012016> (Last access 11 August 2016)

Rudolph Peters, Crime and Punishment in Islamic Law, Cambridge University Press, New York

Rudolph Peters, Crime and Punishment in Islamic Law, Cambridge University Press, New York

Ruhollah Khomeini, Islamic Government, Lebanon - Beirut: Dar Al Fikr Publication, Third Edition, via: <http://ia800801.us.archive.org/13/items/438977843/hkouma-islamih.pdf> (Last access 30 July 2016)

Ruhollah Khomeini, Islamic Government, p52, Lebanon - Beirut: Dar Al Fikr Publication, Third Edition.

Runnymede Trust, “Islamophobia: a challenge for us all”, 1997, via:

<http://www.runnymedetrust.org/uploads/publications/pdfs/islamophobia.pdf>

S. Sayyid, Islamophobia, , Published by: Islamophobia Research and Documentation Project, Center for Race and Gender, University of California, Berkeley, 2014.

S.Sayyid, S. and Abdoolkarim Vakil, Thinking Through Islamophobia, New York: Columbia University Press 2010.

Saddam Hussein Speaks about Kuwait in 1990, via <https://youtu.be/ZjYEtWqUplo> (last access January 2016)

Saeed Alqahtani, The Issue of Blasphemy between the Sunnis and the Misguided Sects in the Light of the Quran and Sunnah, Jeraisy Corporation for Distribution and Advertising, 1996

Saeed Obaid, Al-Qaeda Organization: Growing and Intellectual Background, Madbouly Library, First Edition 2008, Egypt - Cairo.

Saeed, Riaz, The Quranic Concept of Freedom of Expression: A Descriptive Study in Modern Socio-Political Perspective, University of the Punjab, Lahore, Al-Qalam June 2013

Safar al-Hawali, Revealed Sorrow for the Nation's Scientists, Saudi Arabia - Riyadh, Dar al-Hikma for Publishing 1991

Saif A-Din Al-Amidi, Al-Ahkam fi Usul Al-Ahkam (Assets of Provisions), Islamic office, Lebanon, Beirut (1982)

Saif A-Din Al-Amidi, Al-Ahkam fi Usul Al-Ahkam (Assets of Provisions), Islamic office, Lebanon, Beirut (1982)

Saud Abdullah Al-Qahtani, Islamic Awakening Arabia, Dar Al Nadwa: Electronic Library (2003) via: http://kenanaonline.com/files/0098/98064/saudi_sahwa_Qahtani.pdf (Last access 2 August 2016)

Saud Al-Qahtani, Islamic Awakening Arabia, Dar Al Nadwa: Electronic Library (2003) via: http://kenanaonline.com/files/0098/98064/saudi_sahwa_Qahtani.pdf (Last access 2 August 2016)

Sayyid Mohsen Amin, Elders of Shia, Lebanon - Beirut: Dar Al-ta'aruf Publication (1983)

Sebaee Ibrahim, Al-Azhar: «Daesh» are the Kharijites and Aggressors that We Must Fight them, Published on 5-18-2015, Riyadh Newspaper no. 17129

Shawki Allam, Terrorists and Their Quranic Delusion, The Wall Street Journal, 2015, via: <http://www.wsj.com/articles/terrorists-and-their-quranic-delusions-1428620268> (Last access October 28, 2016)

Silvia Angeletti, Freedom of Religion, Freedom of Expression and the United Nations: Recognizing Values and Rights in the “Defamation of Religions” Discourse, This Paper was Presented at the International

Seminar Religious Freedom and Religious Expression: Conflicts and Solutions, Held at the Law Faculty, Complutense University, Madrid, 17-18 November 2011. via:

http://www.statoechiense.it/images/stories/2012.10/angeletti_freedomm.pdf (Last access March 4, 2017)

Speech of Dr. Nabil Al Arabi Secretary-General of the Arab League at the Summit Level the Regular Session 25, in: 25-26 /5/2014 held in Kuwait, via:

<http://www.lasportal.org/ar/summits/Documents/%D9%83%D9%84%D9%85%D8%A9%20%D9%85%D8%B9%D8%A7%D9%84%D9%8A%20%D8%A7%D9%84%D8%AF%D9%83%D8%AA%D9%88%D8%B1%20%D9%86%D8%A8%D9%8A%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%20%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D9%86%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%20%D9%84%D8%AC%D8%A7%D9%85%D8%B9%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9.pdf> (Last access January 2016)

Speech of UAE Foreign Minister Abdullah bin Zayed Al Nahyan, Before the United Nations General Assembly, via: <https://www.youtube.com/watch?v=ziKwRg5xFaw> (Last access November 12, 2016)

State TV Reported Khamenei as Saying on Sunday 3-1-2016, via:

<https://www.theguardian.com/world/2016/jan/03/irans-leader-vows-divine-vengeance-over-clerics-execution-in-saudi> (Last access 19 March 19, 2017)

Statement of Senior Scholars on the Danger of Daesh, Issued by the Saudi Council of Senior Scholars on 9-3-2014.

Statement of the Egyptian Armed Forces on 7-1-2013, via:

<http://www.aljazeera.com/news/middleeast/2013/07/201373203740167797.html> (Last access 13 August 2016)

Statement of the Egyptian Armed Forces on 7-3-2013, via: <http://www.bbc.com/news/world-middle-east-23175529> (Last access 13 August 2016)

Submission Film (2004), Director: Theo van Gogh, Producers and Screenplay: Theo van Gogh, Ayaan Hirsi Ali

Sulaiman Ibn Al Aash'ath, Sunan Abu Dawud, (trans. Ahmad Hassan), Lahore: Sh. M. Ashraf, 1984.

Sultan al-Amiri, The Position of the Companions about Muawiyah, through Website of Al Durar Al Saniyyah, Encyclopedia of Sects, via: <http://www.dorar.net/article/1207> (Last access 9 August 2016)

Sultan Salahuddin, The Legacy of Women and the Issue of Equality, Egypt: Dar Nahdht Misr for Printing, Publishing and Distribution, The First Edition, 1990

Sultan Salahuddin, The Legacy of Women and the Issue of Equality, Egypt: Dar Nahdht Misr for Printing, Publishing and Distribution, The First Edition, 1990

Susan Benesch, 'Contribution to OHCHR Initiative on Incitement to National, Racial, or Religious Hatred', paper made available at the UN OHCHR 2011 Expert workshop on the prohibition of incitement to national, racial or religious hatred, Vienna, February 2011, via:

<http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Others2011/SBenesch.doc> (last accessed March 15 2017)

T. W. Arnold, The Preaching of Islam: A History of the Propagation of the Muslim Faith, London Constable & Company Ltd, Second Edition: Revised and Enlarged 1913.

Tahir Qadri, Human Rights in Islam, Minhaj Ul Quran Publications, Lahore

Tantawi, Mohammed Sayed, Religious Discourse and How to Be?, Al Azhar Journal, Cairo 2002

Taqi al-Din al-Hanbali, The Strict Sword on the Insulter of the Prophet "Al Sarem Al Maslul Ala Shatim Alrasool", Publisher: Saudi Arabian National Guard, Saudi Arabia.

Tariq Hamo, The Muslim Brotherhood in Egypt: Evolution and the Ups and Steep!, Published on 7-6-2015 through NLK website, via: <http://nlka.net/index.php/2014-07-10-22-08-10/282-2015-07-06-18-14-14> (Last access 13 August 2016)

Tawfik Hamid, A Strategic Plan to Defeat Radical Islam, Countering Violent Extremism: Scientific Methods & Strategies, Air Force Research Laboratory, Wright-Patterson AFB, OH, 45433 (2011).

Temperman, J. (2010). Protection against Religious Hatred Under the United Nations ICCPR and the European Convention System, via: <http://hdl.handle.net/1765/88797> (Last access March 4, 2017)

The 9/11 Commission Report, Find Report of the National Commission on Terrorist Attacks Upon the United States "Executive Summary"

The American Convention on Human Rights, adopted at the Inter American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969

The Arab Charter on Human Rights was adopted by the Council of the League of Arab States on 22 May 2004 and entered into force March 15, 2008

The Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights, was opened for signature in Rome on 4 November 1950 and came into force in 1953.

The Convention on the Rights of Persons with Disabilities adopted and opened for signature, and entered into force on 3 May 2008

The Criminal Act of Sudan for 1991, via:

[https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/\\$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf](https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf)

The Criminal Procedures of Yemen for 1994, via: <http://www.refworld.org/pdfid/3fc4bc374.pdf>

The Daily Signal, The 1983 Marine Barracks Bombing: Connecting the Dots, via:

<http://dailysignal.com/2009/10/23/the-1983-marine-barracks-bombing-connecting-the-dots/> (Last access 2 August 2016)

The Final Draft of the Constitution of Egypt 2012, via:

<https://archive.org/details/TheFinalDraftOfTheDostorEgypt> (Last access March 6, 2017)

The Foreign Desk News ,Shi'ite Cleric among 47 Executed in Saudi Arabia, Stirring anger in region, Quoting: The website of Iran's Supreme Leader, Ayatollah Ali Khamenei, via:

<http://www.foreigndesknews.com/top-news/shiite-cleric-among-47/> (Last access December 31, 2016)

The Guardian, Danish Paper Rejected Jesus Cartoons, First Published on 02-06-2006, via:

<https://www.theguardian.com/media/2006/feb/06/pressandpublishing.politics> (Last access March 3, 2017)

the Huffington, FBI: Hate Crime Went Up 6.8 Percent In 2015; Anti-Muslim Incidents Surge To Second Highest Ever, via:

http://www.huffingtonpost.com/brian-levin-jd/fbi-hate-crime-up-68-in-2_b_12951150.html?section=us_politics (Last access February 28, 2017)

The International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976

The Kuwaiti Encyclopedia of Jurisprudence, Vol. 22, Dar That Al-Salasil Publication, Kuwait, Second Edition, via: <http://shamela.ws/browse.php/book-11430#page-13567> (Last access 7/14/2016)

The Law Dictionary Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed, via:
<http://thelawdictionary.org/sharia/>

The Lebanese Constitution, Promulgated May 23, 1962 with its Amendments (1995), Preamble, via:
<http://www.presidency.gov.lb/English/LebaneseSystem/Documents/Lebanese%20Constitution.pdf> (Last access 3 August 2016)

The Lebanese criminal Code, Promulgated March 1 1943, Article 317, via:
<http://www.madcour.com/LawsDocuments/LDOC-1-634454580357137050.pdf> (Last access 3 August 2016)

The Observer and Guardian v. UK (App No 13585/88) (1991) Series A 216

The Official Statement of Yemeni President Abd Rabbo Mansour Hadi, March 24, 2015, via:
<http://www.thenational.ae/uae/gcc-statement-gulf-countries-respond-to-yemen-developments#page2> (Last access 12 August 2016)

The OIC Observatory on Islamophobia, 5th OIC Observatory Report on Islamophobia from May 2011 to September 2012, Presented to the 39th council of foreign ministers, Djibouti, Republic of Djibouti on 15-17 November 2012

The OIC Observatory on Islamophobia, 7th OIC Observatory Report on Islamophobia from October 2013 to April 2014, Presented to the 41 st council of foreign ministers, Jeddah, Kingdom of Saudi Arabia Jeddah, Kingdom of Saudi Arabia on 18–19 June 2014

The OIC Observatory on Islamophobia, 7th OIC Observatory Report on Islamophobia from October 2013 to April 2014, Presented to the 41 st council of foreign ministers, Jeddah, Kingdom of Saudi Arabia Jeddah, Kingdom of Saudi Arabia on 18–19 June 2014

The OIC Observatory on Islamophobia, 8th OIC Observatory Report on Islamophobia from May 2014 – April 2015, Presented to the 42nd council of foreign ministers, Kuwait City, State of Kuwait on 27-28 May 2015

The OIC Observatory on Islamophobia, First OIC Observatory Report on Islamophobia from May 2007 to May 2008, Presented to the 35th council of foreign ministers, Kampala, Republic of Uganda on JUNE 18-20, 2008

The OIC Observatory on Islamophobia, Fourth OIC Observatory Report on Islamophobia from May 2010 to April 2011, Presented to the 38th council of foreign ministers, Astana, Republic of Kazakhstan on June 28-30, 2011

The Oxford Dictionary of Islam, Oxford Islamic Studies Online, via: <http://www.oxfordislamicstudies.com>

The Qatari Foreign Minister, Khalid Al Atiah, emphasized, in Global Governance Conference Held in Léman Switzerland, that Saudi Arabia is a pillar of the Islamic world, via: <https://youtu.be/70zxZGM9IUw> (Last access January 2016)

The Road Ahead: A Human Rights Agenda for Egypt's New Parliament, Human Rights Watch, JANUARY 16, 2012, via: <https://www.hrw.org/report/2012/01/16/road-ahead/human-rights-agenda-egypts-new-parliament> (February 5, 2017).

The Saudi Interior: a Statement for Executing 47 Instigators of terrorism, via:

<http://www.alarabiya.net/ar/saudi-today/2016/01/02/%D8%A8%D9%8A%D8%A7%D9%86-%D8%B9%D8%A7%D8%AC%D9%84-%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9-%D8%A7%D9%84%D8%AF%D8%A7%D8%AE%D9%84%D9%8A%D8%A9-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9.html> (Last access 11 August 2016)

The Sykes-picot Agreement: 1916, Yale Law School, Lillian Goldman Law Library in memory of Sol Goldman via: http://avalon.law.yale.edu/20th_century/sykes.asp (Last access 30 July 2016)

The United Nations Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 , entry into force 2 September 1990

The Universal Declaration of Human Rights, Adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris.

Thiqat Al-islam Al-Kulayni , Furu Al-kafi, Lebanon - Beirut: Dar Al-ta'aruf Publication, First Edition (1992)

Thomas Patrick, Dictionary of Islamic, Munshiram Manoharlal Publishers Pvt. Ltd, 1995

Thorgeirsdottir, Herdis, Commentary on the United Nations Convention on the Rights of the Child, Article 13 : The Right to Freedom of Expression, Martinus Nijhoff (2006).

UAE Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred, Issued on 15/7/2015

UAE Federal Law No (3) of 1987 on Issuance of the Penal Code, via: [https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/\\$FILE/Penal%20Code.pdf](https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/$FILE/Penal%20Code.pdf)

UAE Federal Law No 15 for 1980 Concerning Publications and Publishing, via: <http://nmc.gov.ae/en/MediaLawsAndRegulation/4.pdf> (Last access 3 August 2016)

UAE Federal Law no. (3) of the Year 1987 A.D. Promulgating the Penal Code (Criminal Law), Article (180-repeated), via: http://moodle.ais.ae/pluginfile.php/8098/mod_resource/content/1/United%20Arab%20Emirates%20Penal%20Code%20and%20Amendments%20%282006%29.pdf (Last access 3 August 2016)

Úbeda de Torres, Amaya. "Freedom of Expression under the European Convention on Human Rights: A Comparison With the Inter-American System of Protection of Human Rights." Human Rights Brief 10, no. 2 (2003)

UNESCO Series On Internet Freedom, Countering Online Hate Speech, The United Nations Educational, Scientific and Cultural Organization 7, place de Fontenoy, 75352 Paris 07 SP, France (2015)

United Nation - General Assembly - Human Rights Council, Sixth session, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights ,21 August 2007

United Nations Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 14th session, A/HRC/14/23, 20 April 2010.

United States Commission on International Religious Freedom, The Dangerous Idea of Protecting Religions from “Defamation”: A Threat to Universal Human Rights Standards, 2009

Video: FM Al-Jubeir Addresses Munich Security Conference, via: <https://www.youtube.com/watch?v=RBkloV3ztUA> (Last access October 28, 2016)

Wael Hallaq, The Origins and Evolution of Islamic Law, Cambridge University Press, New York, (2009)

Wafaa Al-Ajmi, The Concept of Freedom in Islam, 2015, The Website of the Message of Islam, via: <http://fiqh.islammessage.com/NewsDetails.aspx?id=11960> (Last access November 4, 2016)

Wahba Ben Mustapha Al Zoheily, Islamic Jurisprudence, Dar al fikr Publication, Damascus, Syria, (2009)

Walid Hosni Zahra, I Hate You: Speech of Hatred and Sectarianism in the Arab Spring Media, Defending Freedom of Journalists Center, First Edition 2014

Walid Saeedan, Explaining Jurisprudential Rules, Vol. 3, The Comprehensive Electronic Library, 2010.

Ward Byers, Religiosity, Freedom of Expression and Lebanon and Morocco, ProQuest LLC (2014)

Weimann Gunnar J, Islamic Criminal Law in Northern Nigeria: Politics, Religion, Judicial Practice, Amsterdam University Press, (2010)

Wesam Foad, The Islamic Discourse; the Essence and Connotations of Renewal, (2005), via: <http://wessamfauad.blogspot.com/2005/10/blog-post.html> (Last access December 2015)

World Assembly of Muslim Youth, Doctrine of the Sunnis, via: <http://www.saaaid.net/feraq/mthahb/0.htm> (Last access 9 August 2016)

Yahya Omran, Specifications of Political Discourse, Hiba Press, (2014), via: <http://www.hibapress.com/details-21651.html> (Last access January 2016)

Yolandi Neil, The Challenges of Media Landscape in Egypt After June 30, BBC Arabic, Published on 08-10-2013, via: http://www.bbc.com/arabic/middleeast/2013/08/130810_egypt_media (Last access December 31, 2016)

YouTube video: Oklahoma GOP Lawmaker Says American Muslims who Subscribe to Islam are Just as Bad as ISIS, Published on 09-17-2014

Zayed Ahmed, Forms of the Contemporary Religious Discourse, Alaeen Publication, Cairo, (2007)

Appendix (1)

Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence

Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence¹

Conclusions and recommendations emanating from the four regional expert workshops organized by OHCHR in 2011, and adopted by experts at the meeting in Rabat, Morocco, on 5 October 2012

I. Preface

1. In 2011, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized a series of expert workshops, in various regions, on incitement to national, racial or religious hatred as reflected in international human rights law. During the workshops, participants considered the situation in the respective regions and discussed strategic responses, both legal and non-legal, to incitement to hatred.

2. The workshops were held in Europe (Vienna, 9 and 10 February 2011), Africa (Nairobi, 6 and 7 April 2011), the Asia Pacific region (Bangkok, 6 and 7 July 2011) and the Americas (Santiago de Chile, 12 and 13 October 2011).² In doing so, OHCHR aimed to conduct a comprehensive assessment of the implementation of legislation, jurisprudence and policies regarding advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence at the national and regional levels, while encouraging full respect for freedom of expression as protected by international human rights law. This activity focused on the relationship between freedom of expression and hate speech, especially in relation to religious issues – a matter that has unfortunately created friction and violence among and within diverse communities, and which has come increasingly under focus.

3. The expert workshops in 2011 generated a wealth of information as well as a large number of practical suggestions for better implementation of the relevant international human rights standards.³ To take stock of the rich results of the 2011 series of workshops, OHCHR convened a final expert workshop in Rabat, Morocco, on 4 and 5 October 2012, to conduct a comparative analysis of the findings of the four workshops; identify possible action at all levels and reflect on the best ways and means of sharing experiences.

4. The four moderators and the experts who participated in all four regional workshops, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, a member of the Committee on the Elimination of Racial Discrimination and a representative of the non-governmental organization, Article XIX, attended the Rabat workshop.

¹ Article 20, paragraph 2 of the International Covenant on Civil and Political Rights states that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Throughout this document, such incitement will be referred to as “incitement to hatred”.

² The four regional expert workshops and the Rabat meeting brought together some 45 experts from different backgrounds, and more than 200 observers participated in the debates.

3 The High Commissioner's message to the four expert workshops as well as the background studies, expert papers, contributions from stakeholders and meeting reports are available at www.ohchr.org/EN/Issues/FreedomOpinion/Articles1920/Pages/Index.aspx

5. In line with the practice of the regional workshops, Member States were invited to participate as observers and were encouraged to include experts from their capitals in the delegations. Relevant United Nations departments, funds and programmes as well as relevant international and regional organizations, national human rights institutions and civil society organizations (including academia, journalists and faith-based organizations) could also participate as observers.

6. The following outcome document reflects the conclusions and recommendations agreed upon by the experts who participated in the Rabat workshop.

II. Context

7. As the world is ever more inter-connected and as the fabric of societies has become more multicultural in nature, there has been a number of incidents in recent years, in different parts of the world, which have brought renewed attention to the issue of incitement to hatred. It should also be underlined that many of the conflicts worldwide in past decades have also – to varying degrees – contained a component of incitement to national, racial or religious hatred.

8. All human rights are universal, indivisible and interdependent and interrelated. Nowhere is this interdependence more obvious than in the discussion of freedom of expression in relation to other human rights. The realization of the right to freedom of expression enables vibrant, multi-faceted public interest debate giving voice to different perspectives and viewpoints. Respect for freedom of expression has a crucial role to play in ensuring democracy and sustainable human development, as well as in promoting international peace and security.

9. Unfortunately, individuals and groups have suffered various forms of discrimination, hostility or violence by reason of their ethnicity or religion. One particular challenge in this regard is to contain the negative effects of the manipulation of race, ethnic origin and religion and to guard against the adverse use of concepts of national unity or national identity, which are often instrumentalized for, inter alia, political and electoral purposes.

10. It is often purported that freedom of expression and freedom of religion or belief are in a tense relationship or even contradictory. In reality, they are mutually dependent and reinforcing. The freedom to exercise or not exercise one's religion or belief cannot exist if the freedom of expression is not respected, as free public discourse depends on respect for the diversity of convictions which people may have. Likewise, freedom of expression is essential to creating an environment in which constructive discussion about religious matters could be held. Indeed, free and critical thinking in open debate is the soundest way to probe whether religious interpretations adhere to or distort the original values that underpin religious belief.

11. It is of concern that perpetrators of incidents, which indeed reach the threshold of article 20 of the International Covenant on Civil and Political Rights, are not prosecuted and punished. At the same time members of minorities are de facto persecuted, with a chilling effect on others, through the abuse of vague domestic legislation, jurisprudence and policies. This dichotomy of (1) non-prosecution of "real" incitement cases and (2) persecution of minorities under the guise of domestic incitement laws seems to be pervasive. Anti-incitement laws in countries worldwide can be qualified as heterogeneous, at times excessively narrow or vague. Jurisprudence on incitement to hatred has been scarce and ad hoc, and while several States have adopted related policies, most of them are too general, not systematically followed up, lacking focus and deprived of proper impact assessments

12. Holding the four workshops in different regions of the world and the wrap-up workshop in Rabat was a very timely and useful initiative. They enjoyed the full participation of relevant treaty body experts and special procedures mandate holders.

III. Implementing the prohibition of incitement to hatred

13. Against this background, the following conclusions and recommendations constitute the synthesis of this long, transparent and deep reflection by experts. The conclusions – in the area of legislation, judicial infrastructure, and policy – are intended to better guide all stakeholders in implementing the international prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

A. Legislation Conclusions

14. Under international human rights standards, which are intended to guide legislation

at the national level, expression labelled as “hate speech” can be restricted under articles 18 and 19 of the International Covenant on Civil and Political Rights on different grounds, including respect for the rights of others, public order or sometimes national security. States are also obliged to “prohibit” expression that amounts to “incitement” to discrimination, hostility or violence (art. 20, para. 2, of the Covenant and, under some different conditions, art. 4 of the International Convention on the Elimination of All Forms of Racial Discrimination).

15. Discussions in the various workshops demonstrated the absence of a legal prohibition of incitement to hatred in many domestic legal frameworks worldwide, while legislation that prohibits incitement to hatred uses variable terminology and is often inconsistent with article 20 of the Covenant. The broader the definition of incitement to hatred is in domestic legislation, the more it opens the door for arbitrary application of the laws. The terminology relating to offences on incitement to national, racial or religious hatred varies from country to country and is increasingly vague, while new categories of restrictions or limitations to freedom of expression are being incorporated in national legislation. This contributes to the risk of misinterpretation of article 20 of the Covenant and additional limitations to freedom of expression that are not contained in article 19 of the Covenant.

16. At the international level, the prohibition of incitement to hatred is clearly established in article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In its general comment No. 34 (2011) on freedoms of opinion and expression, the Human Rights Committee stresses that

“[p]rohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26 of the ICCPR. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith” (para. 48).

17. Article 20 of the Covenant requires a high threshold because, as a matter of fundamental principle, limitation of speech must remain an exception. Such threshold must take into account the provisions of article 19 of the Covenant. Indeed the three-part test (legality, proportionality and

necessity) for restrictions also applies to cases involving incitement to hatred, in that such restrictions must be provided by law, be narrowly defined to serve a legitimate interest, and be necessary in a democratic society to protect that interest. This implies, among other things, that restrictions are clearly and narrowly defined and respond to a pressing social need; are the least intrusive measure available; are not overly broad, so that they do not restrict speech in a wide or untargeted way; and are proportionate so that the benefit to the protected interest outweighs the harm to freedom of expression, including with respect to the sanctions they authorize.⁴

18. At the national level, blasphemy laws are counterproductive, since they may result in de facto censure of all inter-religious or belief and intra-religious or belief dialogue, debate and criticism, most of which could be constructive, healthy and needed. In addition, many blasphemy laws afford different levels of protection to different religions and have often proved to be applied in a discriminatory manner. There are numerous examples of persecution of religious minorities or dissenters, but also of atheists and non-theists, as a result of legislation on what constitutes religious offences or overzealous application of laws containing neutral language.

19. Moreover, the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or a belief that is free from criticism or ridicule.

20. In terms of general principles, a clear distinction should be made between three types of expression: expression that constitutes a criminal offence; expression that is not criminally punishable, but may justify a civil suit or administrative sanctions; expression that does not give rise to criminal, civil or administrative sanctions, but still raises concern in terms of tolerance, civility and respect for the rights of others.

21. Bearing in mind the interrelationship between articles 19 and 20 of the International Covenant on Civil and Political Rights, States should ensure that their domestic legal framework on incitement to hatred is guided by express reference to article 20, paragraph 2, of the Covenant (“...advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence...”), and should consider including robust definitions of key terms such as hatred, discrimination, violence, hostility, among others. In this regard, legislation can draw, *inter alia*, from the guidance and definitions⁵ provided in the Camden Principles.⁶

22. States should ensure that the three-part test – legality, proportionality and necessity – for restrictions to freedom of expression also applies to cases of incitement to hatred.

23. States should make use of the guidance provided by international human rights expert mechanisms, including the Human Rights Committee and the Committee on the Elimination of Racial Discrimination and their general comment No. 34 (2011) and general recommendation No. 15 (1993) respectively, as well as the respective special procedures mandate holders of the Human Rights Council.

24. States are encouraged to ratify and effectively implement the relevant international and regional human rights instruments, remove any reservations thereto and honour their reporting obligations thereunder.

25. States that have blasphemy laws should repeal them, as such laws have a stifling impact on the enjoyment of freedom of religion or belief, and healthy dialogue and debate about religion.

26. States should adopt comprehensive anti-discrimination legislation that includes preventive and punitive action to effectively combat incitement to hatred.

B. Jurisprudence

Conclusions

27. An independent judicial infrastructure that is regularly updated with regard to international standards and jurisprudence and with members acting in an impartial and objective manner, as well as respect for the rules of due process, are crucial for ensuring that the facts and legal qualifications of any individual case are assessed in a manner consistent with international human rights standards. This should be complemented by other checks and balances to protect human rights, such as independent national human rights institutions established in accordance with the Paris Principles.

28. There is often very low recourse to judicial and quasi-judicial mechanisms in alleged cases of incitement to hatred. In many instances, victims are from disadvantaged or vulnerable groups and case law on the prohibition of incitement to hatred is not readily available. This is due to the absence or inadequacy of legislation or lack of judicial assistance for minorities and other vulnerable groups who constitute the majority of victims of incitement to hatred. The weak jurisprudence can also be explained by the absence of accessible archives, but also lack of recourse to courts owing to limited awareness among the general public as well as lack of trust in the judiciary.

29. It was suggested that a high threshold be sought for defining restrictions on freedom of expression, incitement to hatred, and for the application of article 20 of the International Covenant on Civil and Political Rights. In order to establish severity as the underlying consideration of the thresholds, incitement to hatred must refer to the most severe and deeply felt form of opprobrium. To assess the severity of the hatred, possible elements may include the cruelty or intent of the statement or harm advocated, the frequency, quantity and extent of the communication. In this regard, a six-part threshold test was proposed for expressions considered as criminal offences:

- (a) **Context:** Context is of great importance when assessing whether particular statements are likely to incite discrimination, hostility or violence against the target group, and it may have a direct bearing on both intent and/or causation. Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was made and disseminated;
- (b) **Speaker:** The speaker's position or status in the society should be considered, specifically the individual's or organization's standing in the context of the audience to whom the speech is directed;
- (c) **Intent:** Article 20 of the International Covenant on Civil and Political Rights anticipates intent. Negligence and recklessness are not sufficient for an act to be an offence under article 20 of the Covenant, as this article provides for "advocacy" and "incitement" rather than the mere distribution or circulation of material. In this regard, it requires the activation of a triangular relationship between the object and subject of the speech act as well as the audience.
- (d) **Content and form:** The content of the speech constitutes one of the key foci of the court's deliberations and is a critical element of incitement. Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech or the balance struck between arguments deployed;
- (e) **Extent of the speech act:** Extent includes such elements as the reach of the speech act, its public nature, its magnitude and size of its audience. Other elements to consider include whether the speech is public, what means of dissemination are used, for

example by a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement, whether the statement (or work) is circulated in a restricted environment or widely accessible to the general public;

- (f) **Likelihood, including imminence:** Incitement, by definition, is an inchoate crime. The action advocated through incitement speech does not have to be committed for said speech to amount to a crime. Nevertheless, some degree of risk of harm must be identified. It means that the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct.

Recommendations

30. National and regional courts should be regularly updated about international standards and international, regional and comparative jurisprudence relating to incitement to hatred because when confronted with such cases, courts need to undertake a thorough analysis based on a well thought through threshold test.
31. States should ensure the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.
32. Due attention should be given to minorities and vulnerable groups by providing legal and other types of assistance for their members.
33. States should ensure that persons who have suffered actual harm as a result of incitement to hatred have a right to an effective remedy, including a civil or non-judicial remedy for damages.
34. Criminal sanctions related to unlawful forms of expression should be seen as last resort measures to be applied only in strictly justifiable situations. Civil sanctions and remedies should also be considered, including pecuniary and non-pecuniary damages, along with the right of correction and the right of reply. Administrative sanctions and remedies should also be considered, including those identified and put in force by various professional and regulatory bodies.

C. Policies Conclusions

35. While a legal response is important, legislation is only part of a larger toolbox to respond to the challenges of hate speech. Any related legislation should be complemented by initiatives from various sectors of society geared towards a plurality of policies, practices and measures nurturing social consciousness, tolerance and understanding change and public discussion. This is with a view to creating and strengthening a culture of peace, tolerance and mutual respect among individuals, public officials and members of the judiciary, as well as rendering media organizations and religious/community leaders more ethically aware and socially responsible. States, media and society have a collective responsibility to ensure that acts of incitement to hatred are spoken out against and acted upon with the appropriate measures, in accordance with international human rights law.
36. Political and religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech. It should be made clear that violence can never be tolerated as a response to incitement to hatred.
37. To tackle the root causes of intolerance, a much broader set of policy measures is necessary, for example in the areas of intercultural dialogue – reciprocal knowledge and interaction –, education

on pluralism and diversity, and policies empowering minorities and indigenous people to exercise their right to freedom of expression.

38. States have the responsibility to ensure space for minorities to enjoy their fundamental rights and freedoms, for instance by facilitating registration and functioning of minority media organizations. States should strengthen the capacities of communities to access and express a range of views and information and embrace the healthy dialogue and debate that they can encompass.

39. Certain regions have a marked preference for a non-legislative approach to combating incitement to hatred through, in particular, the adoption of public policies and the establishment of various types of institutions and processes, including truth and reconciliation commissions. The important work of regional human rights mechanisms, specialized bodies, a vibrant civil society and independent monitoring institutions is fundamentally important in all regions of the world. In addition, positive traditional values, compatible with internationally recognized human rights norms and standards, can also contribute towards countering incitement to hatred.

40. The importance of the media and other means of public communication in enabling free expression and the realization of equality is fundamental. The traditional media continue to play an important role globally, but they are undergoing significant transformation. New technologies – including digital broadcasting, mobile telephony, the Internet and social networks – vastly enhance the dissemination of information and open up new forms of communication, such as the blogosphere.

41. Steps taken by the Human Rights Council, in particular the adoption without a vote of resolution 16/18 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief, which constitutes a promising platform for effective, integrated and inclusive action by the international community. This resolution requires implementation and constant follow-up at the national level by States, including through the Rabat Plan of Action which contributes to its fulfilment.

Recommendations to States

42. States should enhance their engagement in broad efforts to combat negative stereotypes of and discrimination against individuals and communities on the basis of their nationality, ethnicity, religion or belief.

43. States should promote intercultural understanding, including on gender sensitivity. In this regard, all States have the responsibility to build a culture of peace and a duty to put an end to impunity.

44. States should promote and provide teacher training on human rights values and principles, and introduce or strengthen intercultural understanding as part of the school curriculum for pupils of all ages.

45. States should build the capacity to train and sensitize security forces, law-enforcement agents and those involved in the administration of justice on issues concerning the prohibition of incitement to hatred.

46. States should consider creating equality bodies, or enhance this function within national human rights institutions (that have been established in accordance with the Paris Principles) with enlarged competencies in fostering social dialogue, but also in relation to accepting complaints about incidents of incitement to hatred. In order to render such functions efficient, new adapted guidelines, tests and good practices are needed so as to avoid arbitrary practices and improve international coherence.

47. States should ensure the necessary mechanisms and institutions in order to guarantee the systematic collection of data in relation to incitement to hatred offences.

48. States should have in place a public policy and a regulatory framework which promote pluralism and diversity of the media, including new media, and which promotes universal and non-discrimination in access to and use of means of communication.

49. States should strengthen the current international human rights mechanisms, particularly the human rights treaty bodies such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, as well as the special procedures mandate holders, as they provide advice and support to States with regard to national policies for implementing human rights law.

Recommendations to the United Nations

50. The Office of the High Commissioner for Human Rights (OHCHR) should be properly resourced to adequately support the international expert mechanisms working to protect freedom of expression and freedom of religion, and prevent incitement to hatred and discrimination and on related topics. In this regard, States should support the efforts of the High Commissioner for Human Rights with a view to strengthening the human rights treaty bodies as well as ensuring the provision of adequate resources for the special procedures mechanisms.

51. OHCHR is invited to work together with States that wish to avail themselves of its services in order to enhance their domestic normative and policy framework regarding the prohibition of incitement to hatred. In this regard, OHCHR should consider – inspired by the four regional expert workshops – developing tools, including a compilation of best practices and elements of a model legislation on the prohibition of incitement to hatred as reflected in international human rights law. OHCHR should also consider organizing regular judicial colloquia in order to update national judicial authorities and stimulate the sharing of experiences relating to the prohibition of incitement to hatred which would enrich the progressive development of national legislation and case law on this evolving issue.

52. Relevant human rights treaty bodies and special procedures mandate holders should enhance their synergies and cooperation, including through joint action, as appropriate, to denounce instances of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

53. Various entities of the United Nations system, including OHCHR, United Nations Alliance of Civilizations, and the Office of the Special Advisor on the Prevention of Genocide should enhance their cooperation in order to maximize synergies and stimulate joint action.

54. Cooperation and information-sharing (a) between various regional and cross-regional mechanisms, such as the Council of Europe, the Organization for Security and Co-operation in Europe, the European Union, the Organization of American States, the African Union, the Association of Southeast Asian Nations, as well as the Organisation of Islamic Cooperation, and (b) between these organizations and the United Nations Organization should be further enhanced.

55. Consider implementing, at the national level and in cooperation with States, measures to realize the recommendations addressed to States.

Recommendations to other stakeholders

56. Non-governmental organizations, national human rights institutions as well as other civil society groups should create and support mechanisms and dialogues to foster intercultural and interreligious understanding and learning.

57. Political parties should adopt and enforce ethical guidelines in relation to the conduct of their representatives, particularly with respect to public speech.

58. Self-regulation, where effective, remains the most appropriate way to address professional issues relating to the media. In line with principle 9 of the Camden Principles, all media should, as a moral and social responsibility and through self-regulation, play a role in combating discrimination and promoting intercultural understanding, including by considering the following:

(a) Taking care to report in context and in a factual and sensitive manner, while ensuring that acts of discrimination are brought to the attention of the public.

(b) Being alert to the danger of furthering discrimination or negative stereotypes of individuals and groups in the media.

(c) Avoiding unnecessary references to race, religion, gender and other group characteristics that may promote intolerance.

(d) Raising awareness of the harm caused by discrimination and negative stereotyping.

(e) Reporting on different groups or communities and giving their members the opportunity to speak and to be heard in a way that promotes a better understanding of them, while at the same time reflecting the perspectives of those groups or communities.

59. Furthermore, voluntary professional codes of conduct for the media and journalists should reflect the principle of equality, and effective steps should be taken to promulgate and implement such codes.

IV. Conclusion

60. While the concept of freedom of expression has received systematic attention in international human rights law and in many national legislations, its practical application and recognition is not fully respected by all countries worldwide. At the same time, international human rights standards on the prohibition of incitement to national, racial or religious hatred still need to be integrated into domestic legislation and policies in many parts of the world. This explains both the objective difficulty and political sensitivity of defining this concept in a manner that respects the freedom of expression.

61. The preceding conclusions and recommendations are steps towards addressing these challenges. It is hoped that they will boost both national efforts and international cooperation in this area.

Appendix (2)

The United Arab Emirates Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred

Federal Decree Law No. 2 of 2015

Issued on 15/7/2015

Corresponding to 28 Ramadan 1436

On Combating Discrimination and Hatred

We, Khalifa bin Zayed bin Sultan Al Nahyan, President of the United Arab Emirates State,

After perusal of the Constitution,

Federal Law no. 1 of 1972 on Competencies of the Ministries and Powers of the Ministers and its amendments,

Federal Law No. 18 of 1978 on the Crimes against the Religion of Islam, Federal Law no. 15 of 1980 on Publications and Publishing,

Federal Law No. 3 of 1983 on the Federal Judiciary and its amendments,

Federal Law No. 3 of 1987 promulgating the Penal Code and its amendments,

Federal Law No. 35 of 1992 promulgating the Criminal Procedure Law and its amendments,

Federal Law No. 5 of 2012 on Combating IT Crimes,

Federal Law No. 7 of 2014 on Federal Law No. 7 of 2014 on Combating Terrorist Crimes,

Have issued the following Decree-Law:

Chapter 1 General Provisions

Article 1

In applying the provisions of this Decree, the following terms and phrases shall have the meanings assigned against each of them, unless the context requires otherwise:

State: The United Arab Emirates State.

Religions: The divine religions; Islam, Christianity and Judaism.

Places of worship: Mosques, churches and temples.

Blasphemy: Means any act of insulting or showing contempt for God, to religions, prophets or messengers, holy books or places of worship according to the provisions of this Decree Law.

Discrimination: Any distinction, restriction, exclusion or preference among individuals or groups based on the ground of religion, creed, doctrine, sect, caste, race, colour or ethnic origin.

Hate Speech: Any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups.

Means: The Internet, telecommunication networks, electronic websites, industrial materials, means or information technology or any other means of audio-visual and print.

Means of Expression: Any words, writings, drawings, signals, filming, singing, acting or gesturing.

Article 2

Without prejudice to any other greater penalty specified by any other Law, the penalties referred to in this Decree Law shall be applied to the crimes mentioned therein.

Article 3

No words or action which may incite to commit the crime of blasphemy or defamation of religions contrary to the provisions of the present Decree Law may be debated on the right of freedom and expression.

Chapter 2

Crimes and Penalties

Article 4

Any person who commits any of the following acts shall be sentenced for the crime of blasphemy:

- 1- Offending, showing contempt or irreverence toward the Divine Entity.
- 2- 2- Offending, insulting, challenging, defaming or disrespecting any religion or any of its rituals or sacred things, or disrupting or preventing licensed religious observances or ceremonies by violence or threat.
- 3- Distorting, destroying, desecrating or insulting, in any way, any of the holy books.
- 4- Insulting, disrespecting, offending or defaming one of the messengers or their spouses, family or companions.

- 5- Destroying, damaging or desecrating the sanctity of places of worship, cemeteries or graves, appurtenances or any of their contents.

Article 5

- a- Any person, who commits any of the acts set forth in Clauses (2, 3, 5) of Article (4) of the present Decree Law by any means of expression or by any other form or means, shall be sentenced to imprisonment for a period not less than five year and to a fine not less than two hundred fifty thousand dirhams and not exceeding one million dirhams or either one of these two penalties.
- b- Any person, who commits any of the acts set forth in Clauses (1, 4) of Article (4) of this Decree Law by any means of expression or by any other form or means shall be sentenced to imprisonment for a period not less than five years and to a fine not less than two hundred fifty thousand dirhams and not exceeding two million dirhams.

Article 6

Any person, who commits any act of discrimination of any form by any means of expression or by any other means, shall be sentenced to imprisonment for a period not less than five years, and by a fine not less than five hundred thousand dirhams and not exceeding one million dirhams or either one of these two penalties.

Article 7

Any person, who commits any act involving hate speech by any means of expression or by any other means, shall be sentenced to imprisonment for a period not less than five years and to a fine not less than five hundred thousand dirhams and not exceeding one million dirhams or either one of these two penalties.

Article 8

Any person, who uses any means of expression or other means, to instigate tribal division aiming to provoke hatred among individuals and groups, shall be sentenced to imprisonment for a period not less than six months, and to a fine not less than fifty thousand dirhams or either one of these two penalties.

Article 9

A penalty of imprisonment for a period not less than ten years and a fine not less than five hundred thousand dirhams and not exceeding two million dirhams or either one of these two penalties shall apply if the crimes referred to in Articles (5), (6), (7) of this Decree Law are committed by a public officer during or in the course of or by reason of the fulfilment of his duty or by a religious person or a person who is assigned to such capacity, or if the act was committed in a place of worship.

If the acts referred to in Paragraph (1) of this Article have affected the public peace, the penalty shall be imprisonment for a period not less than ten years and a fine not less than five hundred thousand dirhams and not exceeding two million dirhams.

Article 10

Any person, who misuses religion to call individuals or groups as infidels by any means aiming to achieve their own interests or illegal purposes, shall be sentenced to temporary imprisonment.

The sentence shall be death penalty if the call of infidelity was associated with death, and where the crime was committed as a result thereof.

Article 11

Any person who produces, manufactures, promotes, offers for sale or circulates products, goods, publications, recordings, movies, tapes, discs, software, smart applications or information in the field of electronic service or any other industrial materials or other things involving the means of expression, which may incite to commit blasphemy, or provoke discrimination or hate speech, shall be sentenced to imprisonment for a period not exceeding seven years and to a fine of not less than five hundred thousand dirhams and not exceeding two million dirhams.

Article 12

Any person, who acquires or possesses documents, publications, recordings, movies, tapes, discs, software, smart applications or information in the field of electronic services or any industrial materials or other things involving the means of expression that are intended for distribution or open for public aiming to offend religions, provoke discrimination or hate speech,

shall be sentenced to imprisonment for a period not less than one year, and to a fine not less than fifty thousand dirhams and not exceeding two hundred thousand dirhams.

Moreover, the same punishment shall apply to any person who acquires or possesses any means of printing, recording, storage, sound or visual recording devices or other means of publication, broadcasting or promotion that are used, with his knowledge, in the commission of any of the crimes set forth in the present Federal Decree.

Article 13

Any person, who establishes, sets up, organizes or manages an association, centre, entity, organization, league or group or any branch thereof or uses any other means aiming to offend religions, or provoke discrimination or hate speech or any act involving encouragement or promotion of the same shall be sentenced to imprisonment for a period not less than ten years.

Article 14

Any person, who joins, participates in or assists any of the parties referred to in Article (13) of this Decree Law, knowing of its objectives, shall be sentenced to imprisonment for a period not exceeding seven years.

Article 15

Any person, who holds or organises a conference or a meeting in the State intended to offend religions, or to provoke discrimination or hate speech, shall be sentenced to imprisonment for a period not less than five years.

Any person, who participates in the conference or the meeting, knowing of its objectives, shall be sentenced to the same punishment.

The public authority may stop the conference or the meeting with the use of force if necessary.

Article 16

Any person, who provides, offers, demands, accepts, obtains, hands over or receives funds or material support, either directly or indirectly, with the aim to commit any of the acts punished

under the provisions of the present Decree Law, shall be sentenced to imprisonment and to a fine not less than two hundred fifty thousand dirhams and not exceeding one million dirhams.

Article 17

The representative, director or agent of a legal entity, in case any of the crimes set forth in the present Decree Law is committed, with his knowledge, by any employee of said entity acting in its name or to its interest, shall be sentenced to the same penalties prescribed for the committed crime.

The legal entity shall be held jointly liable to settle any pecuniary penalties or compensation as ruled thereof.

Article 18

Without prejudice to the imposition of penalties set forth in the present Decree Law, the court shall order the dissolution of associations, centres, entities, organizations, leagues and groups and their branches or the closure of the same, either temporarily or permanently.

Moreover, the court shall order the confiscation of money, property, tools or papers which may be used in the commission of any of the crimes set forth in the present Decree Law.

The court shall order the expulsion of a foreigner from the country after the execution of the penalty charged thereof.

Article 19

Any perpetrator of any of the crimes set forth in the present Decree Law, who reports the judicial or administrative authorities before the discovery of such crime shall be exempted from the penalty. If such reporting is carried out after the discovery of such crime, the court may decide to exempt such perpetrator from the punishment when such report has resulted in the detention of other perpetrators.

Chapter 3

Final Provisions

Article 20

In applying the provisions of this Decree Law, discrimination may not apply regarding any advantage, preference or benefit conferred upon women, children, disabled persons, the elderly or others, prescribed by the provisions of any other legislation in the State.

Article 21

The present Decree Law shall be published in the official gazette, and be put into effect one month after its publication date.

Issued by us

At the Presidential Palace in Abu Dhabi

On 28 Ramadan 1436

Corresponding to 15 July 2015

Khalifa bin Zayed bin Sultan Al Nahyan

President of the United Arab Emirates State

